



# FEDERAL REGISTER

---

Vol. 88

Wednesday,

No. 95

May 17, 2023

Pages 31453–31602

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see [www.federalregister.gov](http://www.federalregister.gov).

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at [www.govinfo.gov](http://www.govinfo.gov), a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, [gpocusthelp.com](mailto:gpocusthelp.com).

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see [bookstore.gpo.gov](http://bookstore.gpo.gov).

There are no restrictions on the republication of material appearing in the **Federal Register**.

**How To Cite This Publication:** Use the volume number and the page number. Example: 88 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

#### Subscriptions:

Paper or fiche 202-512-1800  
Assistance with public subscriptions 202-512-1806

**General online information** 202-512-1530; 1-888-293-6498

#### Single copies/back copies:

Paper or fiche 202-512-1800  
Assistance with public single copies 1-866-512-1800  
(Toll-Free)

### FEDERAL AGENCIES

#### Subscriptions:

Assistance with Federal agency subscriptions:  
Email [FRSubscriptions@nara.gov](mailto:FRSubscriptions@nara.gov)  
Phone 202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



# Contents

## Federal Register

Vol. 88, No. 95

Wednesday, May 17, 2023

### Agriculture Department

*See* Animal and Plant Health Inspection Service

*See* Forest Service

### Animal and Plant Health Inspection Service

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Volunteer Service Agreements and Volunteer Service Time and Attendance Record, 31478–31479

Imports:

Fresh Pumpkin, Squash, and the Hybrid Tetsukabuto from Brazil into the Continental United States, 31478

### Children and Families Administration

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Unaccompanied Refugee Minors Program Application and Withdrawal of Application or Declination of Placement Form, 31507

### Coast Guard

#### RULES

Special Local Regulation:

Marine Events within the Eleventh Coast Guard District—Great Western Tube Float, 31475–31476

### Commerce Department

*See* Industry and Security Bureau

*See* International Trade Administration

*See* National Oceanic and Atmospheric Administration

### Commodity Futures Trading Commission

#### NOTICES

Meetings; Sunshine Act, 31499

### Education Department

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Borrower Defense to Loan Repayment Universal Forms, 31500

Prison Education Program Application, 31499–31500

### Energy Department

*See* Federal Energy Regulatory Commission

### Environmental Protection Agency

#### RULES

Pesticide Tolerances:

Spiropidion; Technical Correction, 31476–31477

### Federal Aviation Administration

#### RULES

Airspace Designations and Reporting Points:

Bettles, AK, 31474–31475

Airworthiness Directives:

Allied Ag Cat Productions, Inc. Airplanes, 31472–31474

Boeing Airplanes, 31469–31472

### Federal Energy Regulatory Commission

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31502–31504

Anticipated Schedule:

White Pine Pumped Storage Project, White Pine Waterpower, LLC, 31506

Application:

Kaukauna Utilities, 31501–31502

Authorization for Continued Project Operation:

Village of Enosburg Falls, VT, 31504–31505

Combined Filings, 31505–31506

Request for Extension of Time:

Texas Gas Transmission, LLC, 31500–31501

### Federal Highway Administration

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31589–31590

### Federal Maritime Commission

#### NOTICES

Filing of Third-Party Complaint:

M.E. Dey and Co., Inc., v. Hapag-Lloyd AG, and Hapag-Lloyd (America) LLC, 31506

### Federal Railroad Administration

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31590–31591

Request to Amend Positive Train Control Safety Plan and Positive Train Control System:

Metro-North Railroad, 31591–31592

Utah Transit Authority FrontRunner Commuter Rail, 31590

### Food and Drug Administration

#### NOTICES

Cheese Products Deviating from Identity Standard;

Temporary Permit for Market Testing, 31508–31509

Guidance:

Major Food Allergen Labeling and Cross-contact, 31507–31508

### Foreign Assets Control Office

#### RULES

Publication of Global Magnitsky Sanctions Regulations Web General License 7, 31475

### Forest Service

#### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Community Wood Energy and Wood Innovation Program, 31481–31483

Wood Innovations Funding Opportunity Program, 31479–31481

### General Services Administration

#### NOTICES

Privacy Act; Systems of Records, 31506–31507

**Health and Human Services Department***See* Children and Families Administration*See* Food and Drug Administration*See* National Institutes of Health**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 31509–31510

Meetings:

Advisory Committee on Blood and Tissue Safety and Availability, 31510

**Homeland Security Department***See* Coast Guard**Housing and Urban Development Department****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Emergency Solutions Grant, 31517–31518

Section 8 Renewal Policy Guidebook, 31513–31515

Survey of Market Absorption of New Multifamily Units, 31515–31516

Youth Homeless Systems Improvement Program, 31516–31517

**Industry and Security Bureau****NOTICES**

Denial of Export Privileges:

Rossiya Airlines; Renewal, 31483–31485

**Interior Department***See* Land Management Bureau**Internal Revenue Service****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Collection of Qualitative Feedback on Agency Service Delivery, 31597

**International Trade Administration****NOTICES**

Sales at Less Than Fair Value; Determinations, Investigations, etc.:

Paper File Folders from India, 31490–31493

Paper File Folders from the People's Republic of China, 31485–31488

Paper File Folders from the Socialist Republic of Vietnam, 31488–31490

**International Trade Commission****NOTICES**

Complaint:

Certain Lidar (Light Detection and Ranging) Systems and Components Thereof, 31519–31520

Investigations; Determinations, Modifications, and Rulings, etc.:

Certain Preserved Mushrooms from the Netherlands, Poland, and Spain, 31522

Certain Replacement Automotive Lamps, 31520–31522

Certain Replacement Automotive Lamps II, 31522–31524

Fresh Garlic from China, 31525

**Justice Department****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Firearms Transaction Record, 31525–31526

Proposed Consent Decree:

CERCLA, 31525

**Labor Department****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Workforce Recruitment Program, 31526–31527

**Land Management Bureau****NOTICES**

Meetings:

Colorado's Rocky Mountain Resource Advisory Council, 31518–31519

**National Archives and Records Administration****NOTICES**

Meetings:

Advisory Committee on the Records of Congress, 31527

National Industrial Security Program Policy Advisory Committee, 31527

**National Institutes of Health****NOTICES**

Licenses; Exemptions, Applications, Amendments etc.: Government-Owned Inventions, 31511

Meetings:

Center for Scientific Review, 31511–31512

National Institute of General Medical Sciences, 31511

**National Oceanic and Atmospheric Administration****NOTICES**

Endangered and Threatened Species:

Take of Anadromous Fish, 31498–31499

International Affairs:

United States Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area, 31494–31498

Meetings:

Pacific Fishery Management Council, 31493–31494

**Personnel Management Office****RULES**

Retirement:

Members of Congress and Congressional Employees, 31467–31469

**Postal Regulatory Commission****NOTICES**

Classification Changes, 31528–31529

Competitive Price Changes, 31527–31528

**Presidential Documents****PROCLAMATIONS**

Special Observances:

Mother's Day (Proc. 10580), 31465–31466

National Defense Transportation Day and National

Transportation Week (Proc. 10577), 31453–31455

National Women's Health Week (Proc. 10578), 31457–31459

Peace Officers Memorial Day and Police Week (Proc. 10579), 31461–31463

**ADMINISTRATIVE ORDERS**

Iraq; Continuation of National Emergency With Respect to Stabilization (Notice of May 16, 2023), 31599–31601

**Securities and Exchange Commission****NOTICES**

## Application:

Hartford Schroders Private Opportunities Fund, et al.,  
31532–31533

## Self-Regulatory Organizations; Proposed Rule Changes:

Cboe BZX Exchange, Inc., 31529–31532, 31539–31543

Cboe C2 Exchange, Inc., 31543–31549

Cboe EDGX Exchange, Inc., 31535–31539

Cboe Exchange, Inc., 31554–31562

ICE Clear Credit LLC, 31554, 31571–31575

Long-Term Stock Exchange, Inc., 31533–31535

Municipal Securities Rulemaking Board, 31562–31571

Options Clearing Corp., 31549–31554

**Small Business Administration****NOTICES**

Disaster or Emergency Declaration and Related  
Determination:

California; Amendment No. 3, 31575

**State Department****NOTICES**

Culturally Significant Objects Imported for Exhibition:

Brilliant Bohemian Garnets, 31578–31579

Kore Statue: A Masterpiece of the Acropolis Museum in  
Boston, 31577

Tree and Serpent: Early Buddhist Art in India, 200

B.C.E.-400 C.E., 31577

Privacy Act; Systems of Records, 31575–31577

Request for Comments:

United States Ocean Acidification Action Plan, 31578

**Trade Representative, Office of United States****NOTICES**

Annual Review of Country Eligibility for Benefits under the  
African Growth and Opportunity Act for Calendar Year  
2024, 31579–31580

Product Exclusion Extensions:

China's Acts, Policies, and Practices Related to  
Technology Transfer, Intellectual Property, and  
Innovation, 31580–31589

**Transportation Department**

*See* Federal Aviation Administration

*See* Federal Highway Administration

*See* Federal Railroad Administration

**NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 31592–31593

Request for Information:

Advanced Air Mobility, 31593–31597

**Treasury Department**

*See* Foreign Assets Control Office

*See* Internal Revenue Service

**Separate Parts In This Issue****Part II**

Presidential Documents, 31599–31601

**Reader Aids**

Consult the Reader Aids section at the end of this issue for  
phone numbers, online resources, finding aids, and notice  
of recently enacted public laws.

To subscribe to the Federal Register Table of Contents  
electronic mailing list, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your e-mail  
address, then follow the instructions to join, leave, or  
manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

<b>3 CFR</b>	
<b>Proclamations:</b>	
10577 .....	31453
10578 .....	31457
10579 .....	31461
10580 .....	31465
<b>Administrative Orders:</b>	
Notices:	
Notice of May 16,	
2023 .....	31601
<b>5 CFR</b>	
841 .....	31467
842 .....	31467
<b>14 CFR</b>	
39 (2 documents) .....	31469,
	31472
71 .....	31474
<b>31 CFR</b>	
583 .....	31475
<b>33 CFR</b>	
100 .....	31475
<b>40 CFR</b>	
180 .....	31476

---

# Presidential Documents

---

Title 3—

Proclamation 10577 of May 12, 2023

The President

## National Defense Transportation Day and National Transportation Week, 2023

By the President of the United States of America

### A Proclamation

To have the world's strongest military and leading economy, the United States must have the world's best transportation system. And to achieve that, we must prepare and equip the world's best workforce to build it. Today and this week, we celebrate the American workers who build our infrastructure, power our economy, bolster our national security, and are the backbone of this Nation. We also recommit to investing in our Nation's infrastructure and strengthening critical supply chains.

National Defense Transportation Day dates back to 1957, a year after President Dwight D. Eisenhower signed the landmark Federal-Aid Highway Act. This law helped build America's interstate highway system, which is critical to our national security. In the years since, we have seen how modern transportation makes it possible to deploy service members quickly and to ship defense supplies and equipment efficiently. It also means first responders can act fast when a crisis occurs.

The interstate highway system also proved vital to our national prosperity—connecting small towns with big cities, allowing goods to ship to all corners of the country and world, and turning our infrastructure into the envy of the globe. But gradually, we stopped investing in our infrastructure. As we allowed the quality of our roads, bridges, ports, and railways to deteriorate, so too did the reliability of America's transportation system.

I took office determined to change that. I signed the Bipartisan Infrastructure Law—a once-in-a-generation investment in rebuilding America and putting Americans across the country to work doing it. It is the most significant investment in our infrastructure since President Eisenhower. To date, we have already funded more than 25,000 projects—upgrading roads, bridges, and tunnels from California to Ohio to New York; renovating major airports from Massachusetts to Georgia to Oregon; and upgrading our rail infrastructure on the Northeast Corridor, bringing world-class rail to new corners of the country. We are also paving new highways so trucks filled with goods can get to their destinations faster and deepening channels so ships can move in and out of harbors more efficiently.

Additionally, the Bipartisan Infrastructure Law is the largest investment in public transit in the history of our country. It improves subways and commuter rail in some of the busiest travel corridors in America, easing traffic congestion and making it easier for people to get where they need to go. Thanks to this law, we will replace thousands of diesel school buses with electric buses so our kids do not have to inhale diesel exhaust fumes, which can make them sick. And we are helping local governments retrofit subway stations so people who need an elevator or ramp can reliably access our rail systems. All told, these actions will improve transit for millions of Americans while reducing emissions.

These investments are part of our mission to build a clean energy future. As part of that effort, we are creating a national network of electric vehicle charging stations across America. In time, finding a place to charge your

electric vehicle will be as easy as pulling into a gas station. And our Inflation Reduction Act, the largest investment ever made to tackle climate change, is providing incentives for companies to electrify heavy-duty vehicles and for consumers to buy electric cars and fuel cell vehicles.

As we improve our transportation system, we must make good on our promise that the workers who are designing, building, and maintaining it are seeing the benefits. Many of these new jobs in construction, trucking, and the railroad industry will be union jobs with good pay and good benefits, providing the breathing room American families deserve. We are also investing in workforce development; expanding Registered Apprenticeships and pre-apprenticeship programs; and spurring commitments from employers, unions, and community-based organizations to invest in training and apprenticeships. And we worked hand in hand with the trucking industry to improve safety and job quality through the Biden Trucking Action Plan.

Finally, we are working to rectify our Nation's past mistakes when it comes to where and how we build new infrastructure. Nearly six decades ago, the expansion of the interstate highway system routed many highways directly through Black and brown communities, destroying entire neighborhoods or cutting them off from economic opportunity. In response, my Administration launched the Reconnecting Communities Pilot Program—the first-ever Federal initiative to cap highways and add green spaces in an effort to unify neighborhoods that had been divided. Our goal is to ensure that our investments reach places that have historically been forgotten, opening doors of opportunity and strengthening communities as cranes go up and shovels dig into the ground.

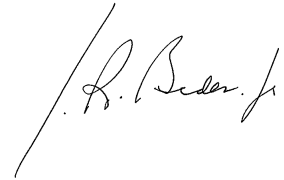
On this National Defense Transportation Day and throughout National Transportation Week, I am proud to say that we are embarking on an infrastructure decade. Our investments to create the world's best and safest roads, bridges, railroads, ports, airports, and more will make our economy and country stronger. And by empowering America's workers—who in turn power our national prosperity—we will continue to build an economy from the middle out and bottom up, not the top down. That is America at its best—reinventing, rebuilding, and reimagining a future of boundless possibilities.

In recognition of the ongoing contributions of our Nation's transportation system and in honor of the devoted professionals who work to sustain its tradition of excellence, the United States Congress has requested, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), that the President designate the third Friday in May of each year as "National Defense Transportation Day" and, by joint resolution approved May 14, 1962 (36 U.S.C. 133), that the week in which that Friday falls be designated as "National Transportation Week."

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim Friday, May 19, 2023, as National Defense Transportation Day; and May 14 through May 20, 2023, as National Transportation Week. I urge all Americans to observe these occasions with appropriate ceremonies, programs, and activities as we show our appreciation to those who build and operate our Nation's transportation systems.



IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-seventh.

A handwritten signature in black ink, appearing to read "Joe Biden", is written over a diagonal line that serves as a signature line.

## Presidential Documents

Proclamation 10578 of May 12, 2023

### National Women's Health Week, 2023

By the President of the United States of America

#### A Proclamation

During National Women's Health Week, our Nation recommits to improving the health and well-being of women and girls across America and encouraging them to make their health a priority.

The White House officially observed its first National Women's Health Week in 2010, the same year we passed the landmark Affordable Care Act. This law ended the shameful practices of denying women coverage for pre-existing conditions and charging them more for health care simply because they are women. It extended crucial preventive care, like cancer screenings, to millions more Americans and expanded access to basic health services, like maternity care.

As President, I have worked hard to protect the expanded health care coverage provided to millions by the Affordable Care Act and to strengthen Medicaid for those who need it. At the same time, I have acted to improve the well-being of women and their families, including slashing prescription drug prices and saving American families hundreds of dollars a year on health insurance premiums. I am proud that our Nation has seen historic health insurance coverage gains since I took office, and I am working to ensure that health care is a right in our Nation, not a privilege.

But so many women are still denied this right, especially when it comes to making deeply personal decisions about their own bodies and health. Last year, the Supreme Court overturned *Roe v. Wade*, with grave repercussions for millions of women across the country. Since then, women having miscarriages have been turned away from emergency rooms by health care professionals afraid of the legal consequences of providing care. Women have been told they need to wait until they are sicker before they can be seen by a doctor. Others have been denied prescriptions they need, and still others are forced to travel hundreds of miles away from their homes and families, across State lines, to access life-saving care.

In response to this crisis, I have issued two Executive Orders to protect a woman's right to access comprehensive reproductive health care services, including abortion and contraception. My Administration is working to ensure that patients receive care during medical emergencies; safeguard patients' privacy and their sensitive health information; and promote the safety and security of patients as well as providers, who are delivering the evidence-based, lawful care and treatment that they have been trained to provide. My Administration will continue to defend access to medication abortion and I will also continue to call on the Congress to restore the protections of *Roe v. Wade* in Federal law, which would secure the right to choose once and for all.

My Administration is also leading efforts to tackle the maternal health crisis, which has resulted in American women—particularly Black and Native American women—dying at a higher rate from pregnancy-related causes than in any other developed nation. As part of my Blueprint for Addressing the Maternal Health Crisis, we have extended Medicaid postpartum coverage across America and taken steps to grow and diversify the maternal health workforce, and we are working to improve access to care in rural communities

and address systemic inequities that put many women at greater risk of pregnancy-related complications.

Vice President Kamala Harris has been a leader on the issue of maternal mortality for years, and she continues to elevate the problem nationally, convening State legislators, medical professionals, and private industry leaders to work together to develop solutions so all women can access the care they need before, during, and after childbirth.

To address the mental health challenges that new and expecting mothers may face, including postpartum depression, anxiety, or substance use disorder, my Administration launched the National Maternal Mental Health Hotline (1-833-TLC-MAMA) and the Maternal Mental Health Task Force, charged with improving maternal mental health in this country. We are making other investments in women's mental health as well, such as expanding Certified Community Behavioral Health Clinics, which deliver 24/7 mental health care to millions of Americans, regardless of their ability to pay. And my 2024 Budget proposes spending tens of billions over the next 10 years to transform our behavioral health system.

Standing up for women's health also means preventing gender-based violence and helping survivors access safety, justice, and healing. Last year, I was proud to reauthorize and strengthen the landmark Violence Against Women Act, which I first introduced in the United States Senate more than 30 years ago. We have increased funding for shelters and rape crisis centers, expanded access to housing and legal assistance for survivors of abusive relationships, and enhanced training for law enforcement agencies and courts. We have also expanded support for survivors—including addressing the needs of LGBTQI+ survivors and other underserved populations—and have broadened protections to cover online abuse, such as the non-consensual distribution of intimate images.

My Administration is fighting a wave of extreme State policies that target transgender women and girls to prevent or limit access to evidence-based, gender-affirming health care just because of who they are. I have challenged my Administration to address discrimination wherever we find it and to ensure equal access to health care for all Americans.

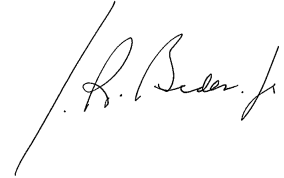
The First Lady and I are committed to ending cancer as we know it through the reignited Cancer Moonshot, including for the nearly one million American women who will be diagnosed with cancer this year. My Administration increased our investment in the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program, which provides breast and cervical cancer screening and diagnostic services to those with low incomes who are uninsured or otherwise qualify for the program. We are bringing together community health centers and leading cancer centers to facilitate access to life-saving cancer screenings and close the screening gap. We have also created the Advanced Research Projects Agency for Health (ARPA-H) to deliver new, innovative, comprehensive ways to prevent, detect, and treat cancer and other diseases.

In addition, my Administration will continue its work to prevent health conditions that affect women, including heart disease and diabetes. Heart disease is the number one killer of women in this country. My Administration has a national strategy that seeks to improve access to affordable, healthy food; better integrate nutrition into the health care system; support physical activity for all; and enhance research into food and nutrition security. At the same time, experts agree it is important that women get regular checkups, preventive screenings, vaccinations, and mental health care.

This week, we make our message clear to women and girls across America: Your health impacts the future of our Nation. Achieving everything America aspires to be depends on the health, safety, and support we give to all women, who are leaders in every industry, in every community, and in every family.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 14 through May 20, 2023, as National Women's Health Week. During this week, I encourage all Americans to join us in a collective effort to improve and support the health of women and girls and promote health equity for all. I encourage all women and girls to prioritize their health and catch up on any missed screenings, routine care, and vaccines.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-seventh.

A handwritten signature in black ink, appearing to read "Joe Biden", with a long, sweeping horizontal line extending to the left.

## Presidential Documents

**Proclamation 10579 of May 12, 2023**

### **Peace Officers Memorial Day and Police Week, 2023**

**By the President of the United States of America**

#### **A Proclamation**

Every day when law enforcement officers pin on their badges, they make an extraordinary commitment to the American people: to rush toward danger regardless of the risk and to faithfully stand up for the rule of law. Across our neighborhoods, towns, and cities, they put themselves in harm's way, hoping to return home safely to their families. On Peace Officers Memorial Day and during Police Week, we celebrate the remarkable courage of our law enforcement community and honor the fallen heroes who made the ultimate sacrifice to protect their fellow Americans.

As a Nation, we expect a lot from our law enforcement officers. They save lives by keeping our roads, subways, and highways safe and responding to domestic violence incidents and natural disasters. We ask them to ensure public safety, build trust within our neighborhoods, and protect the well-being of our communities. Too often, they are also called upon to respond to mass shootings, drug overdoses, mental health crises, and more. Being a law enforcement officer is not just what they do; it is who they are.

The same is true for their families, who sacrifice alongside these heroic Americans. It takes a special person to marry or be the child of a law enforcement officer—knowing the uncertainty as their loved one walks out the door and dreading the possibility of receiving that phone call.

No memorial can ever fill the void left in the hearts of those who have lost a loved one in the line of duty. But their sacrifices in full service to their communities and to our Nation will never be forgotten. We will continue to honor their memories with actions that help keep our law enforcement officers and communities safe from harm.

When I took office at the height of the pandemic, State, local, Tribal, and territorial law enforcement budgets were shrinking. Some agencies were facing their lowest staffing levels in decades, undermining their ability to perform their jobs. That is why we provided crucial funding to help police departments build new training facilities, recruit new personnel, and give officers a raise. I also expanded benefits for first responders who were disabled in the line of duty and their families. And I signed laws improving officer wellness by expanding critical mental health resources to address the physical and emotional trauma that so many members of our law enforcement community experience.

Meanwhile, I have taken steps to keep law enforcement officers safer on the job by signing the most sweeping gun safety law in nearly three decades. It helps keep more guns out of the hands of dangerous people, including by broadening restrictions on domestic abusers, which is critical because domestic violence calls can often turn deadly for police. This law also supports crisis interventions, including extreme risk protection orders, and provides a billion dollars to address the mental health crisis in America. We are also strengthening background checks for 18 to 20-year-olds trying to purchase guns, helping prosecutors crack down on illegal gun sales, and reining in ghost guns that police across the country are increasingly finding at crime scenes.

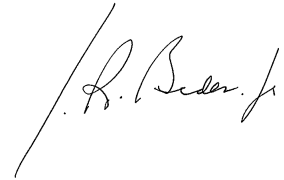
As I have often said, when it comes to keeping our communities safe, the answer is not to defund the police. It is to fund them with the resources and training they need to protect and serve our communities and to build trust with the American public. My Safer America Plan calls on the Congress to invest in recruiting, hiring, and training more than 100,000 additional officers for effective, accountable community policing, consistent with the standards of my policing Executive Order. My plan also invests in programs that send social workers and other professionals to respond to calls that should not be the responsibility of law enforcement. And it invests \$5 billion in proven crime-prevention strategies like community violence interruption. We must not accept the false choice between public safety and public trust; they are two sides of the same coin.

At the National Law Enforcement Memorial in Washington, D.C., there is a quote engraved on the wall that reads, “It is not how these officers died that made them heroes, it is how they lived.” Today, during this week, and year-round, we express our gratitude for the courageous women and men of our Nation’s law enforcement community. We honor the memory of the members who made the ultimate sacrifice and pray for their families. And we recommit ourselves to the sacred task of creating a safer and more just Nation for all Americans.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as “Peace Officers Memorial Day” and the week in which it falls as “Police Week.”

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim May 15, 2023, as Peace Officers Memorial Day and May 14 through May 20, 2023, as Police Week. I call upon all Americans to observe these events with appropriate ceremonies and activities and salute our Nation’s brave law enforcement officers and remember their peace officer brothers and sisters who have given their last full measure of devotion in the line of duty. I also call on the Governors of the United States and its Territories, and appropriate officials of all units of government, to direct that the flag be flown at half-staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half-staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-seventh.

A handwritten signature in black ink, appearing to read "Joe Biden", with a long, sweeping diagonal line extending upwards and to the left from the start of the signature.

## Presidential Documents

**Proclamation 10580 of May 12, 2023**

### **Mother's Day, 2023**

**By the President of the United States of America**

#### **A Proclamation**

On Mother's Day, we celebrate the moms and the women filling the role of a mother in our lives, who bless us with a total sense of what it means to be family. They believe in us so we can believe in ourselves. They sacrifice to give us opportunities they never had. They are there for us at our highest points and our lowest moments, lifting us up when we need it most.

The lessons I learned from my mother, Catherine Eugenia "Jean" Finnegan Biden, continue to guide me today. She led with honor. She believed everyone deserved to be treated equally. She reminded my siblings and me that failure was inevitable, but giving up was never an option. She would say that courage is the greatest virtue, because without courage, you cannot love with abandon.

My wife, First Lady Jill Biden, has loved our children and grandchildren with abandon as well. She was the glue that helped put our family back together after my boys and I experienced profound loss. Every day, her joy, wisdom, and strength bring light to so many, including the students she teaches full time.

Across the country, mothers are nurturing children, providing for families, and driving innovation in every field. They serve at the highest levels of government, lead our Nation's military, and power our economy—running some of the biggest companies in the world and operating beloved small businesses on Main Streets across America. At the same time, many mothers work night shifts and jobs that often do not pay them enough to make ends meet and support their families. As moms continue knocking down the barriers that stand in the way of all women and girls reaching their full potential, my Administration is working to give them support and opportunity. Our American Rescue Plan helped keep the doors open for 220,000 child care providers—90 percent of which are owned and staffed by women—so families could go to work while their children were cared for. We expanded the Child Tax Credit and cut child poverty in half during our first year in office. The historic infrastructure, manufacturing, and clean energy laws I signed as part of our Investing in America agenda are creating good-paying jobs for women in sectors where they have been previously underrepresented. And to ensure that new and expecting mothers can thrive in the workplace, I signed into law new protections for pregnant workers and nursing parents in the workplace: the Pregnant Workers Fairness Act and the Providing Urgent Maternal Protections for Nursing Mothers Act.

Meanwhile, Vice President Kamala Harris is leading the charge to make pregnancy and childbirth safer for all women and to make sure pregnant women and moms in all communities are treated fairly. We released a Blueprint for Addressing the Maternal Health Crisis to lower the rates of maternal mortality and morbidity; reduce disparities in maternal health; and improve the experiences of women before, during, and after birth across the country. Our American Rescue Plan gave States the option to extend Medicaid postpartum coverage for a full year—up from just 60 days—and we have already approved requests from over 30 States and Washington,



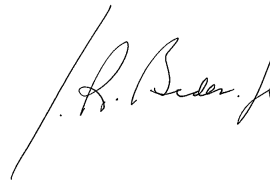
D.C., to expand this coverage. And my Administration continues fighting for a national, comprehensive paid family and medical leave program.

Today, at family gatherings across America, let us give thanks for all the mothers and mother-figures, who we love so much. Let us be sure to make the most of our precious time together. Let us also keep in our prayers those who observe this day with a hole in their heart, missing a mom's irreplaceable presence and the comfort it brings, as well as the mothers who know the pain of losing a child. Finally, let us continue working to extend our country's promise of dignity and opportunity to America's mothers—the least we can do for the people in our lives who have given us the most.

The Congress, by joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as “Mother's Day” and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim May 14, 2023, as Mother's Day. I urge all Americans to express their love, respect, and gratitude to mothers everywhere. I call upon all citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-seventh.

A handwritten signature in black ink, appearing to read "Joe Biden", with a long, sweeping horizontal line extending to the left.

# Rules and Regulations

Federal Register

Vol. 88, No. 95

Wednesday, May 17, 2023

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 841 and 842

RIN 3206–AO42

### Retirement: Members of Congress and Congressional Employees

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is finalizing amendments to reflect the provisions enacted under the Middle Class Tax Relief and Job Creation Act of 2012 (“2012 Act”) and the Bipartisan Budget Act of 2013 (“2013 Act”). These Acts decreased the benefit accrual rate used in the annuity computation and increased employee deductions.

**DATES:** This final rule is effective on May 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Jane Bancroft, (202) 606–0299. Email: [Retirement.Policy@opm.gov](mailto:Retirement.Policy@opm.gov), with Public Law 112–96 and Attn: Jane Bancroft in the subject line.

#### SUPPLEMENTARY INFORMATION:

#### Background

On November 16, 2022, OPM issued a proposed rule at 87 FR 68642 to implement the provisions of Public Law 110–279, 122 Stat. 2604 (2008) (codified at 2 U.S.C. 2051), as amended by Public Law 116–21, (2019). The 60-day public comment period ended on January 17, 2023. OPM received one comment—which was not responsive to the subject matter discussed in the rule. Therefore, this rule is being finalized with no changes for the November 16th proposed rule.

Because of the uncertain tenure of congressional service, the FERS was originally designed, as the Civil Service Retirement System had been, to provide a larger benefit for each year of service to Members or congressional employees

than to most other federal employees. Prior to the enactment of the 2012 Act, all Members or congressional employees became eligible for retirement annuities at an earlier age and with fewer years of service than most other federal employees. However, all Members or congressional employees paid a higher percentage of employee deductions for their retirement benefits than most other federal employees. The 2012 Act made two significant changes to the retirement benefits of congressional employees and Members who are first covered by FERS after December 31, 2012. First, the 2012 Act decreased the FERS benefit accrual rates used in the FERS annuity calculation for congressional employees or Members first covered by FERS (or reelected with less than five years of FERS service) after December 31, 2012, to be the same as regular FERS employees. Therefore, the higher accrual rate applicable to Members or congressional employees is no longer available to those first covered by FERS after December 31, 2012.

Second, the 2012 Act increased the FERS employee contributions by 1.8 percentage points for Members first covered by FERS (or reelected with less than five years of FERS-covered service) after December 31, 2012. Therefore, Members newly covered by FERS beginning January 1, 2013, are required to contribute 3.1% of their basic pay to the Civil Service Retirement and Disability Fund. Enactment of the 2013 Act, further increased the FERS employee deductions by an additional 1.3 percentage points for all FERS-covered employees, including Members and congressional employees, first covered by FERS after December 31, 2013 (or rehired/reelected with less than five years of FERS-covered service). Subsequently, under the 2013 Act, Members and other federal employees first covered by FERS beginning in 2014 are required to contribute 4.4% of basic pay to FERS.

Beginning January 1, 2013, there is no longer a larger employee contribution under FERS required for Members and congressional employees in comparison with regular FERS employees; all of these groups contribute 3.1% of basic pay toward their FERS annuity if first covered after December 31, 2012, or 4.4% of basic pay if first covered by FERS after December 31, 2013. Members first elected after December 31, 2012,

however, remain eligible for retirement annuities under FERS at earlier ages and with fewer years of service than regular federal employees.

#### Regulatory Impact Analysis

Executive Order 12866 and Executive Order 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is not a “significant regulatory action,” under Executive Order 12866 and was not reviewed by the Office of Management and Budget.

#### Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

#### Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) requires rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action before its effective date, as required by 5 U.S.C. 801. This is not a

“major rule” as defined by the Congressional Review Act (5 U.S.C. 804(2)).

### Paperwork Reduction Act

This rule does not impose any reporting or record-keeping requirements subject to the Paperwork Reduction Act.

### List of Subjects

#### 5 CFR Part 841

Administrative practice and procedure, Air traffic controllers, Claims Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

#### 5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

For the reasons stated in the preamble, the Office of Personnel Management amends 5 CFR parts 841–842 to read as follows:

### PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

- 1. Revise the authority citation for part 841 to read as follows:

**Authority:** 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; Secs. 841.110 and 841.111 also issued under 5 U.S.C. 8470(a); subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99–335; Sec. 841.604 also issued under Title II, Pub. L. 106–265, 114 Stat. 780; Sec. 5001 of Pub. L. 112–96 at 126 Stat. 199.

- 2. Amend § 841.103 by adding, in alphabetical order, the definitions of “FERS FRAE” and “FERS RAE” to read as follows:

#### § 841.103 Definitions.

**FERS FRAE**, or a Further Revised Annuity Employee as identified under 5 U.S.C. 8422, is an employee or Member covered under FERS hired on or after January 1, 2014, unless the employee or Member—

(1) Was covered under FERS on December 31, 2012; or

(2) Performed civilian service creditable or potentially creditable under FERS on December 31, 2012;

(3) Or, if not covered under FERS on December 31, 2012, performed at least 5 years of civilian service creditable or potentially creditable under FERS prior to December 31, 2012; or

(4) Was covered under FERS RAE on December 31, 2013; or

(5) Was performing civilian service creditable or potentially creditable under FERS RAE on December 31, 2013; or

(6) If not covered under FERS RAE on December 31, 2013, performed at least 5 years of civilian service creditable or potentially creditable under FERS prior to December 31, 2013.

**FERS RAE**, or a Revised Annuity Employee as identified under 5 U.S.C. 8422, is an employee or Member covered under FERS hired on or after January 1, 2013, and before January 1, 2014, unless the employee or Member—

(1) Was covered under FERS on December 31, 2012; or

(2) Performed civilian service creditable or potentially creditable under FERS on December 31, 2012; or

(3) If not covered under FERS on December 31, 2012, performed at least 5 years of civilian service creditable or potentially creditable under FERS prior to December 31, 2012.

- 3. Revise § 841.503 to read as follows:

#### § 841.503 Amounts of employee deductions.

(a) Except as provided in paragraph (b) of this section, the rate of employee deductions from basic pay for FERS coverage is seven percent of basic pay minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(b) The rate of employee deductions from basic pay for FERS coverage for a Member, law enforcement officer, firefighter, nuclear materials courier, customs and border protection officer, air traffic controller, member of the Supreme Court Police, Congressional employee, or employee under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees (who are not FERS RAE or FERS FRAE employees or Members, as defined under § 841.103 of this part), is seven and one-half percent of basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(c) After December 31, 2012, the rate of employee deductions from basic pay for—

(1) A FERS RAE employee, Member, or Congressional employee is nine and three-tenths percent of basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(2) A FERS RAE law enforcement officer, firefighter, nuclear materials courier, customs and border protection officer, air traffic controller, member of the Supreme Court Police, or employee under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees is nine and eight-tenths percent of basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(d) After December 31, 2013, the rate of employee deductions from basic pay for—

(1) FERS FRAE employee, Member, or Congressional employee is ten and six-tenths percent basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(2) A FERS FRAE law enforcement officer, firefighter, nuclear materials courier, customs and border protection officer, air traffic controller, member of the Supreme Court Police, or employee under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees is eleven and one-tenth percent of basic pay, minus the percent of tax which is (or would be) in effect for the payment, for the employee cost of social security.

(e) Employee deductions will be at the rate in paragraphs (a) through (d) of this section as if social security deductions were being made even if social security deductions have ceased because of the amount of earnings during the year, or are not made for any other reason.

### PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

- 4. Revise the authority citation for part 842 to read as follows:

**Authority:** 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321–102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251, and Sec. 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Pub. L. 104–106, 110 Stat. 515; Sec. 842.110 also issued under Sec. 111 of Pub. L. 99–500, 100 Stat. 1783, and Sec. 111 of Pub. L. 99–591, 100 Stat. 3341–348, and also Sec. 1 of Pub. L. 110–279, 122 Stat. 2602, as amended by Sec. 1(a) of Pub. L. 116–21, 133 Stat. 903; Sec. 842.208 also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Sec. 842.213 also issued

under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Pub. L. 107–228, 116 Stat. 1383; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Pub. L. 101–239, 103 Stat. 2106, and Sec. 7001 of Pub. L. 101–508, 104 Stat. 1388; Subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Sec. 636 of Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–164; Sec. 842.811 also issued under Sec. 226(c)(2) of Pub. Law 108–176, 117 Stat. 2529; Subpart J also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Pub. L. 115–352, 132 Stat. 5067 (5 U.S.C. 101); Sec. 5001 of Pub. L. 112–96 at 126 Stat. 199; 5 U.S.C. 8401; 5 U.S.C. 8415.

## Subpart D—Computations

### ■ 5. Revise § 842.406 to read as follows:

#### § 842.406 Members of Congress and Congressional Employees.

(a) The annuity of a congressional employee or Member who is first covered by FERS on or before December 31, 2012, and who has had at least 5 years of service as a congressional employee, Member, or any combination thereof totaling 5 years is—

(1) One and seven-tenths percent of average pay multiplied by the total number of years of service as a Member and/or congressional employee not exceeding 20 years; plus

(2) One percent of average pay multiplied by the years of service other than that of a Member and/or congressional employee.

(b) Except as provided in paragraph (c) of this section, the annuity of a congressional employee or Member who is first covered by FERS after December 31, 2012, or Member re-elected with less than 5 years of FERS service after December 31, 2012, and who has had at least 5 years of service as a congressional employee, Member, or any combination thereof totaling 5 years is 1 percent of average pay multiplied by total service.

(c) The annuity of a congressional employee or Member is 1.1 percent of average pay multiplied by total service, provided the congressional employee or Member—

(1) Has completed 20 years of service; and

(2) Is at least age 62 at the time of separation on which entitlement to an annuity is based.

[FR Doc. 2023–09972 Filed 5–16–23; 8:45 am]

BILLING CODE 6325–38–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2023–1048; Project Identifier AD–2023–00620–A,T; Amendment 39–22440; AD 2023–10–04]

RIN 2120–AA64

#### Airworthiness Directives; Boeing Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Boeing Model B–17E, B–17F, and B–17G airplanes. This AD was prompted by a report indicating that the left front spar lower fitting had completely separated at the wing-to-fuselage joint, and the equivalent joint on the right side of the airplane was cracked. This AD requires inspections of the wing terminal-to-spar chord joints, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 1, 2023.

The FAA must receive comments on this AD by July 3, 2023.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**AD Docket:** You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA–2023–1048; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** For more information about this AD, contact Eric Schrieber, Aerospace Engineer, Airframe Section, FAA, Airframe Section, West Certification Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone 562–627–5348; email [Eric.Schrieber@faa.gov](mailto:Eric.Schrieber@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

During walk-around checks performed in 2021 prior to takeoff of a Model B–17 airplane, it was discovered that the left wing had shifted away from the fuselage by about 2 inches. Further investigation was conducted when both wings were removed in 2023 and found complete separation of the left front spar lower fitting at the wing-to-fuselage joint as well as additional cracking on the equivalent joint on the right side of the airplane. This condition, if not addressed, could result in fatigue cracking of the wing terminal-to-spar chord joints, which could result in loss of control of the airplane and reduced structural integrity of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

AD 2001–22–06, Amendment 39–12485 (66 FR 54111, October 26, 2001), requires an inspection of the holes in the spar chord at the same location where the cracks were recently discovered in the steel fitting. However, that inspection has not been effective in reliably detecting cracks in the steel fitting inside the spar chord tube. For this reason, the FAA has determined that a new inspection procedure is required.

Some of these airplanes are operated under experimental airworthiness certificates. The FAA has intentionally included these airplanes in the applicability of this AD because of the risks associated with passenger-carrying operations frequently conducted by these airplanes.

##### FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

##### AD Requirements

This AD requires inspections of the wing terminal-to-spar chord joints to detect cracking and corrosion, using one of two options:

- a magnetic particle inspection of the terminal fittings and an eddy current inspection of the spar chord, or
- an eddy current bolt hole inspection on the steel terminal fittings and the aluminum spar chord.

This AD also requires repairing cracking and corrosion and sending all inspection results (both positive and negative) to the FAA.

Interim Action

The FAA considers this AD to be an interim action. The inspection reports that are required by this AD will enable the FAA to obtain better insight into the nature, cause, and extent of the discrepancies found on the affected airplanes. The information from the reports will help the FAA evaluate the risk to develop a long-term solution that will address the unsafe condition. Once final action has been identified, the FAA might consider further rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because fatigue cracking of the wing terminal-to-spar chord joints could result in loss of control of the aircraft

and reduced structural integrity of the airplane. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include Docket No. FAA–2023–1048 and Project Identifier AD–2023–00620–A,T at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt

from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Eric Schrieber, Aerospace Engineer, Airframe Section, FAA, Airframe Section, West Certification Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone 562–627–5348; email *Eric.Schrieber@faa.gov*. Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 18 airplanes of U.S. registry. Of those, only 3 are currently in flying condition and several others are undergoing restoration. The FAA is also aware of one additional aircraft in operation in the United Kingdom. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections * .....	25 work-hours × \$85 per hour = \$2,125 .....	\$25	\$2,150	\$38,700
Reporting .....	1 work-hour × \$85 per hour = \$85 .....	0	85	1,530

\* Estimates are provided for the eddy current bolt hole inspections of the most inboard fastener only.

Although this AD provides two inspection options for compliance, only the cost estimates for the eddy current bolt hole inspections are provided. The FAA has received no definitive data on which to base the cost estimates for the magnetic particle inspection. Further, the magnetic particle inspection requires major disassembly, whereas the bolt hole inspections require only disassembling one bolt. Therefore, the

FAA predicts most operators will choose to do the eddy current bolt hole inspections, which do not require major disassembly.

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB

Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

#### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2023-10-04 Boeing:** Amendment 39-22440; Docket No. FAA-2023-1048; Project Identifier AD-2023-00620-A,T.

##### (a) Effective Date

This airworthiness directive (AD) is effective June 1, 2023.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to all Boeing Model B-17E, B-17F, and B-17G airplanes, certificated in any category.

##### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

##### (e) Unsafe Condition

This AD was prompted by a report indicating that the wing of one airplane had shifted away from the fuselage by about 2 inches, and the left front spar lower fitting had completely separated at the wing-to-fuselage joint, and additional cracking was found on the equivalent joint on the right side of the airplane. The FAA is issuing this AD to address these conditions, which, if not addressed, could result in loss of control of the airplane and reduced structural integrity of the airplane.

##### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

##### (g) Inspection

**Before further flight:** Perform inspections to detect cracking and corrosion by doing the actions specified in either paragraph (g)(1) or (2) of this AD. No action is required by this AD if all wing terminal fittings have been inspected in accordance with paragraph (b)(1) of AD 2001-22-06, Amendment 39-12485 (66 FR 54111, October 26, 2001), and, as of the effective date of this AD, no more than 10 years or 2,500 flight hours have accumulated since that inspection.

(1) Separate all 8 wing terminal-to-spar chord joints (wings off) and perform a magnetic particle inspection of the steel terminal fittings and an eddy current inspection of the 8 inboard holes in the end of the spar chord, in accordance with

procedures approved by the Manager, West Certification Branch, FAA.

(2) On the left and right lower forward terminal fitting-to-spar chord joint assemblies, remove the most inboard fastener common to the spar cord and the terminal fitting, and do an eddy current bolt hole inspection on the steel terminal fittings and on the aluminum spar chord in accordance with procedures approved by the Manager, West Certification Branch, FAA.

##### (h) Repair

If any cracking or corrosion is found during the inspections required by paragraph (g) of this AD, repair before further flight using a method approved by the Manager, West Certification Branch, FAA.

##### (i) Report

At the applicable time specified in paragraph (i)(1) or (2) of this AD, submit a report of all findings (positive and negative) from the inspections required by paragraph (g) of this AD. The report must include a statement that no discrepancies were found or a description of any discrepancies found including the condition of the wing terminal-to-spar chord joints (terminal fitting and spar chord), the inspection procedure used, the airplane serial number, and the number of flight hours on the airplane. Submit the report to Eric Schrieber, Senior Engineer, West Certification Branch Airframe Section, email [Eric.Schrieber@faa.gov](mailto:Eric.Schrieber@faa.gov).

(1) *If the inspection was done on or after the effective date of this AD:* Submit the report within 10 days after the inspection.

(2) *If the inspection was done before the effective date of this AD:* Submit the report within 10 days after the effective date of this AD.

##### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, West Certification Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to [9-ANM-LAACO-AMOC-Requests@faa.gov](mailto:9-ANM-LAACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

##### (k) Related Information

For more information about this AD, contact Eric Schrieber, Aerospace Engineer, Airframe Section, FAA, Airframe Section, West Certification Branch, 3960 Paramount Boulevard, Lakewood, CA 90712-4137; phone 562-627-5348; email [Eric.Schrieber@faa.gov](mailto:Eric.Schrieber@faa.gov).

##### (l) Material Incorporated by Reference

None.

Issued on May 12, 2023.

**Gaetano A. Sciortino,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023-10624 Filed 5-15-23; 4:15 pm]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2022-1656; Project Identifier AD-2022-01081-A; Amendment 39-24242; AD 2023-08-07]

**RIN 2120-AA64**

#### **Airworthiness Directives; Allied Ag Cat Productions, Inc. Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Allied Ag Cat Productions, Inc. (Allied Ag Cat) Model G-164A and G-164B airplanes with certain supplemental type certificates (STCs) installed. This AD was prompted by an accident involving an Allied Ag Cat Model G-164B airplane where the airplane's propeller pitch control (PPC) linkage detached from the PPC of the engine and resulted in an accident that significantly damaged the airplane and injured the pilot. This AD requires installing a secondary retention feature (bolt, washer, and safety wire) on the PPC lever and the PPC assembly. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 21, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 21, 2023.

#### **ADDRESSES:**

*AD Docket:* You may examine the AD docket at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA-2022-1656; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

*Material Incorporated by Reference:*

- For service information identified in this final rule, contact Honeywell

International, Inc., 111 South 34th Street, Phoenix, AZ 85034; phone: (800) 601-3099; website: [aerospace.honeywell.com](https://aerospace.honeywell.com).

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at [regulations.gov](https://www.regulations.gov) by searching for and locating Docket No. FAA-2022-1656.

#### **FOR FURTHER INFORMATION CONTACT:**

Justin Carter, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Parkway, Fort Worth, TX 76177; phone: (817) 222-5146; email: [justin.carter@faa.gov](mailto:justin.carter@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Allied Ag Cat Model G-164A and G-164B airplanes with certain STCs installed. The NPRM published in the **Federal Register** on December 28, 2022 (87 FR 79821). The NPRM was prompted by a report of an accident involving an Allied Ag Cat Model G-164 airplane where the airplane's PPC linkage detached from the PPC of the engine. The pilot sustained serious injuries, and the airplane was substantially damaged. The root cause was determined to be a lack of a secondary retention feature for the PPC of the engine. In the NPRM, the FAA proposed to require installing a secondary retention feature (bolt, washer, and safety wire) on the PPC lever and the PPC assembly. The FAA is issuing this AD to address the unsafe condition on these products. This condition, if not addressed, could result in reduced control of the airplane.

Aircraft configurations for airplanes with the potential for this condition to exist are as follows:

- Model G-164A airplanes with STC No. SA7769SW, SA7966SW, or SA8720SW installed; and
- Model G-164B airplanes with STC No. SA7546SW, SA7966SW, SA7987SW, or SA8720SW installed.

##### **Discussion of Final Airworthiness Directive**

##### **Comments**

The FAA received two comments from Honeywell, Inc. (Honeywell). The following presents the comments received on the NPRM and the FAA's response to each comment.

##### **Request To Clarify Unsafe Condition**

Honeywell requested that paragraph (e), Unsafe Condition, of the proposed AD be revised to specify "detachment of the airplane's propeller pitch control linkage (PPC)" instead of "detachment of the propeller pitch control (PPC) linkage." The commenter explained that this change would differentiate the linkage of the aircraft type design from the linkage of the engine type design.

The FAA agrees and revised paragraph (e) of this AD accordingly. The FAA also revised the SUMMARY and Background sections of this final rule to clarify detachment of the airplane's PPC.

##### **Request To Revise Paragraph (g) of the Proposed AD**

Honeywell requested that the FAA delete the last sentence, "Part re-identification is required only if rework is done" from paragraph (g), Install Secondary Retention Feature, of the proposed AD. The commenter explained that this sentence could be misinterpreted as negating re-identification instructions that are included elsewhere in Honeywell Service Bulletin TPE331-72-2190, Revision 0, dated December 21, 2011. The commenter noted that the intent of this sentence is adequately addressed by "After the rework is completed, re-identify the part number of the PPC assembly, cam assembly, and shouldered shaft . . ." which is also in paragraph (g) of the proposed AD.

The FAA agrees and deleted "Part re-identification is required only if rework is done" from paragraph (g) of this AD.

##### **Conclusion**

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

##### **Related Service Information Under 14 CFR Part 51**

The FAA reviewed Honeywell Service Bulletin TPE331-72-2190, Revision 0, dated December 21, 2011. This service information identifies the affected PPC assemblies and applicable engines, and specifies procedures for reworking the affected PPC assemblies to incorporate a threaded hole in the splined end of the shouldered shaft. This service information is reasonably available because the interested parties have

access to it through their normal course of business or by the means identified in **ADDRESSES**.

#### Other Related Service Information

The FAA reviewed the Honeywell TPE331 Propeller Pitch Control Lever letter, dated August 26, 2011, addressed

to the original equipment manufacturer (OEM). This letter informs the OEM of a report Honeywell received about the TPE331 PPC lever shaft becoming detached from the PPC assembly cam shaft and communicates the future development of a Honeywell service bulletin (released as Honeywell Service

Bulletin TPE331-72-2190, Revision 0, dated December 21, 2011).

#### Costs of Compliance

The FAA estimates that this AD affects 200 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

#### ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation of secondary retention feature .....	4 work-hours × \$85 per hour = \$340 .....	\$1,000	\$1,340	\$268,000

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

#### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2023-08-07 Allied Ag Cat Productions, Inc.:** Amendment 39-22422; Docket No. FAA-2022-1656; Project Identifier AD-2022-01081-A.

#### (a) Effective Date

This airworthiness directive (AD) is effective June 21, 2023.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to the following Allied Ag Cat Productions, Inc. airplanes, all serial numbers, certificated in any category.

(1) Model G-164A airplanes with Supplemental Type Certificate (STC) No. SA7769SW, SA7966SW, or SA8720SW installed.

(2) Model G-164B airplanes with STC No. SA7546SW, SA7966SW, SA7987SW, or SA8720SW installed.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 6120, Propeller Controlling System.

#### (e) Unsafe Condition

This AD was prompted by a report of an accident caused by the detachment of the airplane's propeller pitch control (PPC) linkage from the PPC of the engine. The FAA is issuing this AD to prevent the PPC linkage from detaching from the PPC of the engine. The unsafe condition, if not addressed, could result in reduced control of the airplane.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Install Secondary Retention Feature

Within 12 months after the effective date of this AD, install a secondary retention feature (bolt, washer, and safety wire) on the PPC lever and the PPC assembly. If rework of the PPC assembly (specifically, the shouldered shaft within the cam assembly within the PPC assembly) is required to do this installation, do the rework in accordance with the procedures in Section 3.C(3)(d)2 of Honeywell Service Bulletin TPE331-72-2190, Revision 0, dated December 21, 2011. After the rework is completed, re-identify the part number of the PPC assembly, cam assembly, and shouldered shaft, in accordance with Sections 3.C(4), 3.C(5), and 3.C(7), as applicable, of Honeywell Service Bulletin TPE331-72-2190, Revision 0, dated December 21, 2011.

**Note 1 to paragraph (g):** Honeywell TPE331 Propeller Pitch Control Lever letter, dated August 26, 2011, to the original equipment manufacturer, contains information related to this subject.

#### (h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (i)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

#### (i) Related Information

(1) For more information about this AD, contact Justin Carter, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Parkway, Fort Worth, TX 76177; phone: (817) 222-5146; email: [justin.carter@faa.gov](mailto:justin.carter@faa.gov).

(2) Service information identified in this AD that is not incorporated by reference is



available at the addresses specified in paragraphs (j)(3) and (4) of this AD.

**(j) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Honeywell Service Bulletin TPE331-72-2190, Revision 0, dated December 21, 2011.

(ii) [Reserved]

(3) For service information identified in this AD, contact Honeywell International, Inc., 111 South 34th Street, Phoenix, AZ 85034; phone: (800) 601-3099; website: [aerospace.honeywell.com](http://aerospace.honeywell.com).

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued on April 19, 2023.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023-10408 Filed 5-16-23; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2022-1267; Airspace Docket No. 22-AAL-23]

**RIN 2120-AA66**

#### Revocation of Federal Colored Airway A-9; Bettles, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action removes Colored Federal airway Amber 9 (A-9) due to the planned decommissioning of the Evansville, AK (EAV), Non-Directional Beacon (NDB), which provides navigation guidance for the affected route. The EAV, NDB is scheduled to be decommissioned effective on June 15, 2023.

**DATES:** Effective date 0901 UTC, August 10, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51,

subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** A copy of the notice of proposed rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at [www.regulations.gov](http://www.regulations.gov) using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the route structure in Alaska to maintain the efficient flow of air traffic within the National Airspace System.

##### History

The FAA published a NPRM for Docket No. FAA-2022-1267 in the **Federal Register** (87 FR 65544; October 31, 2022), removing Colored Federal airway A-9 in the vicinity of Bettles, AK, due to the decommissioning of the EAV, NDB. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

##### Incorporation by Reference

Colored Federal airways are published in paragraph 6009 of FAA

Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

##### The Rule

This action amends 14 CFR part 71 by removing Colored Federal airway A-9 in the vicinity of Bettles, AK, due to the decommissioning of the EAV, NDB. The existing Very High Frequency (VHF) Omnidirectional Range (VOR) Federal airway V-444, and United States Area Navigation (RNAV) route T-232 provide alternative routes to A-9.

##### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### Environmental Review

The FAA has determined that his action of removing Colored Federal airway A-9 due to the planned decommissioning of the Evansville, AK (EAV), NDB in the vicinity of Bettles, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas,

airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5k, which categorically excludes from further environmental review the publication of existing air traffic control procedures that do not essentially change existing tracks, create new tracks, change altitude, or change concentration of aircraft on these tracks. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

*Paragraph 6009 Colored Federal Airways.*

\* \* \* \* \*

#### A–9 [Removed]

\* \* \* \* \*

Issued in Washington, DC, on May 11, 2023.

**Brian Konie,**

*Acting Manager, Airspace Rules and Regulations.*

[FR Doc. 2023–10435 Filed 5–16–23; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Part 583

### Publication of Global Magnitsky Sanctions Regulations Web General License 7

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Publication of Web General License.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Global Magnitsky Sanctions Regulations: GL 7, which was previously made available on OFAC's website.

**DATES:** GL 7 was issued on March 31, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490.

#### SUPPLEMENTARY INFORMATION:

#### Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: [www.treas.gov/ofac](http://www.treas.gov/ofac).

#### Background

On March 31, 2023, OFAC issued GL 7 to authorize certain transactions otherwise prohibited by the Global Magnitsky Sanctions Regulations, 31 CFR part 583. This GL was made available on OFAC's website ([www.treas.gov/ofac](http://www.treas.gov/ofac)) when it was issued. The text of the GL is provided below.

#### OFFICE OF FOREIGN ASSETS CONTROL

#### Global Magnitsky Sanctions Regulations

#### 31 CFR Part 583

#### GENERAL LICENSE NO. 7

#### Authorizing Certain Transactions Involving Tabacalera del Este S.A. or Tabacos USA Inc. Pursuant to the Tobacco Master Settlement Agreement

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by the Global Magnitsky Sanctions Regulations, 31 CFR part 583 (GMSR), involving Tabacalera del Este S.A. (TABESA), Tabacos USA Inc. (Tabacos), or any entity in which TABESA or Tabacos owns, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest, that are ordinarily incident and

necessary to payments under the tobacco Master Settlement Agreement (MSA), entered into on November 23, 1998 between certain U.S. state and territory attorneys general and certain tobacco companies, are authorized.

(b) This general license does not authorize any transaction otherwise prohibited by the GMSR, including transactions involving any person blocked pursuant to the GMSR other than the blocked persons described in paragraph (a) of this general license, unless separately authorized.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

Dated: March 31, 2023.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2023–10607 Filed 5–16–23; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG–2023–0311]

### Special Local Regulation; Marine Events Within the Eleventh Coast Guard District—Great Western Tube Float

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Great Western Tube Float special local regulation on the waters of Parker, Arizona on June 10, 2023. This special local regulation is necessary to provide for the safety of the participants, crew, sponsor vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

**DATES:** The regulations in 33 CFR 100.1102 will be enforced from 8 a.m. until 5 p.m., on June 10, 2023 for the location described in Item No. 9 in Table 1 to § 100.1102.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notification of enforcement, call or email Lieutenant Junior Grade Shera Kim, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email [MarineEventsSD@uscg.mil](mailto:MarineEventsSD@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulations in 33 CFR 100.1102 for the

Great Western Tube Float in Parker, AZ for the location described in Table No. 1 to § 100.1102, Item No. 9 of that section, from 8 a.m. to 5 p.m. on June 10, 2023. This action is being taken to provide for the safety of life on the navigable waterway during the race. Our regulation for recurring marine events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona), § 100.1102, Table 1 to § 100.1102, Item No. 9, specifies the location of the regulated area for the Great Western Tube Float, which encompasses portions of the Colorado River. Under the provisions of § 100.1102, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: April 12, 2023.

**J.W. Spitzer,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. 2023-10489 Filed 5-16-23; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2021-0356; FRL-9839-02-OCSPP]

#### Spiropidion; Pesticide Tolerances; Technical Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction and amendment.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of July 20, 2022, establishing tolerances for residues of the insecticide spiropidion and its

metabolites and degradates in or on multiple commodities requested by Syngenta Crop Protection, LLC under the Federal Food, Drug, and Cosmetic Act (FIFRA). That document inadvertently misstated the nomenclature listed for the residue definition of the spiropidion metabolite SYN547305. This document corrects the noted error in the referenced regulation.

**DATES:** This final rule correction is effective May 17, 2023.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0356, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. For the latest status information on EPA/DC services, docket access, visit <https://www.epa.gov/dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: [RDNotices@epa.gov](mailto:RDNotices@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this action apply to me?

The Agency included in the July 20, 2022, final rule a list of those who may be potentially affected by this action.

##### II. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment since this correction is not a substantive change at all, just a technical change. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, because EPA is correcting the inadvertent error in the listing for the nomenclature for the residue definition of the spiropidion metabolite SYN547305. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B). This technical

change does not create any new regulatory requirements that affected parties would need time to prepare for since it is just a correction of a technical error.

##### III. Do any of the statutory and executive order reviews apply to this action?

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit VI. of the July 20, 2022, final rule.

##### IV. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

##### V. What does this technical correction do?

FR Doc. 2022-15410 published in the **Federal Register** of July 20, 2022 (87 FR 43214) (FRL-9389-01-OCSPP) is corrected as follows:

1. On page 43215, first column, under the heading “Summary of Petitioned-For Tolerance,” paragraph 1, lines 16–17, revise “[3-(4-chloro-2,6-dimethyl-phenyl)-8-methoxy-1-methyl-1,8-diazaspiro[4.5]decane-2,4-dione; and 2-(4-chloro-2,6-dimethyl-phenyl)-1-hydroxy-8-methoxy-4-methyl-4,8-diazaspiro[4.5]dec-1-en-3-one]” to read “[3-(4-chloro-2,6-dimethylphenyl)-4-hydroxy-8-methoxy-1-methyl-1,8-diazaspiro[4.5]dec-3-en-2-one]”.

2. On page 43218, third column, under the heading “Conclusion,” paragraph 1, lines 23–25, revise “[3-(4-chloro-2,6-dimethyl-phenyl)-8-methoxy-1-methyl-1,8-diazaspiro[4.5]decane-2,4-dione; and 2-(4-chloro-2,6-dimethyl-phenyl)-1-hydroxy-8-methoxy-4-methyl-4,8-diazaspiro[4.5]dec-1-en-3-one]” to read “[3-(4-chloro-2,6-dimethylphenyl)-4-hydroxy-8-methoxy-1-methyl-1,8-diazaspiro[4.5]dec-3-en-2-one]”.

3. On page 43218, third column, under the heading “Conclusion,” paragraph 1, lines 34–37, revise “[3-(4-chloro-2,6-dimethyl-phenyl)-8-methoxy-1-methyl-1,8-diazaspiro[4.5]decane-2,4-dione; and 2-(4-chloro-2,6-dimethyl-phenyl)-1-hydroxy-8-methoxy-4-methyl-4,8-diazaspiro[4.5]dec-1-en-3-one]” to read “[3-(4-chloro-2,6-dimethylphenyl)-4-hydroxy-8-”

##### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 9, 2023.

**Charles Smith,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR part 180 is corrected by making the following correcting amendments:

**PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD**

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

**§ 180.723 Spiropidion; tolerances for residues.**

■ 2. In § 180.723:

■ a. Amend paragraph (a)(1) by revising “SYN547305 [3-(4-chloro-2,6-dimethylphenyl)-8-methoxy-1-methyl-1,8-diazaspiro[4.5]decane-2,4-dione; and 2-(4-chloro-2,6-dimethylphenyl)-1-hydroxy-8-methoxy-4-methyl-4,8-diazaspiro[4.5]dec-1-en-3-one],” to read as “SYN547305 [3-(4-chloro-2,6-dimethylphenyl)-4-hydroxy-8-methoxy-1-methyl-1,8-diazaspiro[4.5]dec-3-en-2-one]”; and

■ b. Amend paragraph (a)(2) by revising “SYN547305 [3-(4-chloro-2,6-dimethylphenyl)-8-methoxy-1-methyl-1,8-diazaspiro[4.5]decane-2,4-dione; and 2-(4-chloro-2,6-dimethylphenyl)-1-hydroxy-8-methoxy-4-methyl-4,8-diazaspiro[4.5]dec-1-en-3-one],” to read as “SYN547305 [3-(4-chloro-2,6-dimethylphenyl)-4-hydroxy-8-methoxy-1-methyl-1,8-diazaspiro[4.5]dec-3-en-2-one]”.

[FR Doc. 2023–10153 Filed 5–16–23; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register

Vol. 88, No. 95

Wednesday, May 17, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0105]

#### Importation of Fresh Pumpkin, Squash, and the Hybrid Tetsukabuto From Brazil Into the Continental United States

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of availability.

**SUMMARY:** We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh pumpkin, squash, and the interspecific hybrid tetsukabuto from Brazil into the continental United States. Based on the analysis, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh pumpkin, squash, and tetsukabuto from Brazil. We are making the pest risk analysis available to the public for review and comment.

**DATES:** We will consider all comments that we receive on or before July 17, 2023.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov). Enter APHIS–2020–0105 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0105, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket

may be viewed at [www.regulations.gov](http://www.regulations.gov) or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2352.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the regulations in “Subpart L–Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Brazil to allow the importation of fresh pumpkin (*Cucurbita moschata*), squash (*Cucurbita maxima*), and the interspecific hybrid tetsukabuto (*C. moschata* × *C. maxima*) from Brazil into the continental United States. Currently, the importation of those items is not authorized. As part of our evaluation of Brazil’s request, we have prepared a pest risk assessment to identify the pests of quarantine significance that could follow the pathway of the importation of fresh pumpkin, squash, and tetsukabuto into the continental United States from Brazil. Based on the pest risk assessment, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to those commodities to mitigate the pest risk.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our pest risk assessment and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh pumpkin, squash, and tetsukabuto from Brazil, may be viewed on the [Regulations.gov](http://Regulations.gov) website or in our reading room (see **ADDRESSES** above for a link to [Regulations.gov](http://Regulations.gov) and information on the location and hours of the reading room). You may request paper copies of the pest risk assessment and RMD by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the importation status of fresh pumpkin, squash, and tetsukabuto from Brazil in a subsequent notice. If the overall conclusions of our analysis and the Administrator’s determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh pumpkin, squash, and tetsukabuto from Brazil into the continental United States subject to the requirements specified in the RMD.

*Authority:* 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 12th day of May 2023.

**Michael Watson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2023–10548 Filed 5–16–23; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0043]

#### Notice of Request for Extension of Approval of an Information Collection; Volunteer Service Agreements and Volunteer Service Time and Attendance Record

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with volunteer service agreements and volunteer service time and attendance record.

**DATES:** We will consider all comments that we receive on or before July 17, 2023.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov). Enter APHIS–2023–0043 in the search field. Select the Documents tab, then select the Comment button in the list of documents.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0043, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at [regulations.gov](http://regulations.gov) or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** For information on volunteer service agreements and volunteer service time and attendance record, contact Ms. Martha Gravagna, Human Resources Specialist, HR Policy, HRD, MRPBS, APHIS, 250 Marquette Avenue, Suite 410, Minneapolis, MN 55401; (612) 336–3355. For detailed information on the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2533; [joseph.moxey@usda.gov](mailto:joseph.moxey@usda.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Volunteer Service Agreements and Volunteer Service Time and Attendance Record.

*OMB Control Number:* 0579–0477.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* Section 1526 of the Food and Agricultural Act of 1981 (7 U.S.C. 2272) permits the Secretary of Agriculture to establish a program to use volunteers to carry out U.S. Department

of Agriculture (USDA) programs. Departmental Regulation No. 4230–001, Volunteer Programs, provides the guidelines USDA agencies must use for acceptance of volunteers and sets a requirement for agencies to publish their guidelines. Office of Personnel Management (OPM) regulations in 5 CFR part 308 provide agencies with the authority to establish programs designed to provide educationally related volunteer assignments for students in non-pay status.

The Marketing and Regulatory Programs (MRP) mission area of USDA uses several information collection activities to assist MRP program officials, administrative personnel, and USDA Human Resources offices in determining a volunteer's eligibility and suitability for volunteer service. The information is necessary to facilitate establishment of guidelines for acceptance of volunteer services under the above authorities and regulations, determine an individual's eligibility and suitability to serve as a volunteer in MRP, and comply with OPM regulations requiring documentation of volunteer service and maintenance of records.

Information is collected using two information collection requests, one for students and one for non-student volunteers, that ask for personal data, citizenship or immigration status, and student status (if applicable). A third collection request is used to document the dates on which volunteer service from all volunteers is rendered, the location, and the amount of time the volunteer spent performing those duties.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection

technologies; e.g., permitting electronic submission of responses.

*Estimate of burden:* The public burden for this collection of information is estimated to average 0.59 hours per response.

*Respondents:* Individuals engaged in activities for which they are not paid, except for authorized expenses associated with performance of volunteer activities.

*Estimated annual number of respondents:* 86.

*Estimated annual number of responses per respondent:* 3.

*Estimated annual number of responses:* 256.

*Estimated total annual burden on respondents:* 151 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of May 2023.

**Michael Watson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2023–10486 Filed 5–16–23; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Information Collection; Wood Innovations Funding Opportunity Program (CFDA 10.674)

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice; request for comment.

**SUMMARY:** The grants and agreements awarded under this announcement will support the Agriculture Improvement Act of 2018, Rural Revitalization Technologies, Infrastructure Investment and Jobs Act (commonly known as the Bipartisan Infrastructure Law), Inflation Reduction Act of 2022, and the nationwide challenge of disposing of hazardous fuels and other wood residues from the National Forest System lands and other forest lands in a manner that supports wood products and wood energy markets. The intent of the Wood Innovations funding opportunity is to stimulate, expand, and support U.S. wood products markets and wood energy markets to support the long-term management of National Forest System and other forest lands.

**DATES:** Comments related to the collection of information must be

submitted by July 17, 2023 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to: Kevin Naranjo, USDA, Forest Service, Cooperative Forestry, 201 14th Street SW, 3NW, Washington, DC 20250.

Comments may also be submitted via email to: [kevin.naranjo@usda.gov](mailto:kevin.naranjo@usda.gov).

The public may inspect comments received at USDA Forest Service, Washington Office during normal business hours. Visitors are encouraged to call ahead to 202-205-0995 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to [kevin.naranjo@usda.gov](mailto:kevin.naranjo@usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Kevin Naranjo, Wood Innovations, Cooperative Forestry, at 404-673-3482, or by electronic mail to [kevin.naranjo@usda.gov](mailto:kevin.naranjo@usda.gov). Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 800-877-8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

*Title:* Wood Innovations Funding Opportunity Program.

*OMB Number:* 0596-0256.

*Expiration Date of Approval:* 07/31/2023.

*Type of Request:* Extension with no Revision of a currently approved information collection.

*Abstract:* The grants and agreements awarded under this announcement will support the Agriculture Improvement Act of 2018 Public Law 115-334, Rural Revitalization Technologies 7 U.S.C. 6601, Infrastructure Investment and Jobs Act (commonly known as the Bipartisan

Infrastructure Law) Public Law 117-58, Inflation Reduction Act of 2022 Public Law 117-169, and the nationwide challenge of disposing of hazardous fuels and other wood residues from the National Forest System lands and other forest lands in a manner that supports wood products and wood energy markets. The intent of the Wood Innovations funding opportunity is to stimulate, expand, and support U.S. wood products markets and wood energy markets to support the long-term management of National Forest System lands and other forest lands.

Eligible applicants are for-profit entities; state and local governments; Indian Tribes; school districts; community, not-for-profit organizations; institutions of higher education; and special purpose districts (e.g., public utilities districts, fire districts, conservation districts, and ports).

*Affected Public:* Individuals and Households, the Private Sector (Businesses and Non-Profit Organizations, and/or State, Local or Tribal Government.

#### **Burden Hours for Public Applicants**

*Title of Collection:* Burden Hours for FS-1500-0050: Wood Innovations Funding Opportunity Application.

*Estimate of Annual Burden:* 330.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

*Title of Collection:* Burden Hours for Screenshot of active or in-process SAM.gov registration.

*Estimate of Annual Burden:* 110.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1 hours.

*Total Annual Burden for FS-1500-50 and Screenshot of Same Is 440 Hours*

#### **Request for Common Use Forms**

*Title of Collection:* Burden Hours for SF-424: Application for Federal Assistance.

*Estimate of Annual Burden:* 110.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1.00 hours.

*Title of Collection:* Burden Hours for SF-424A: Budget Information for Non-Construction Programs.

*Estimate of Annual Burden:* 55.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.50 hours.

*Title of Collection:* Burden Hours for SF-424B: Assurances for Non-Construction Programs.

*Estimate of Annual Burden:* 27.50 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS-1500-35: Certificate Regarding Lobbying Activities.

*Estimate of Annual Burden:* 27.50 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS-1500-22: Financial Capability Questionnaire.

*Estimate of Annual Burden:* 27.50 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for Interim Project Progress Report.

*Estimate of Annual Burden:* 82.50 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.75 hours.

*Title of Collection:* Burden Hours for SF-425: Federal Financial Report.  
*Estimate of Annual Burden:* 82.50 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.75 hours.

#### **Burden Hours for Tribal and State Applicants**

*Title of Collection:* Burden Hours for FS-1500-0050: Wood Innovations Funding Opportunity Application.

*Estimate of Annual Burden:* 330.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

*Title of Collection:* Burden Hours for Screenshot of active or in-process SAM.gov registration.

*Estimate of Annual Burden:* 110.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 110.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1 hours.

*Total Annual Burden for FS-1500-50 and Screenshot of Same Is 440 Hours*

#### **Request for Common Use Forms**

*Title of Collection:* Burden Hours for SF-424: Application for Federal Assistance.

*Estimate of Annual Burden:* 24.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

*Title of Collection:* Burden Hours for SF-424A: Budget Information for Non-Construction Programs.

*Estimate of Annual Burden:* 4.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.50 hours.

*Title of Collection:* Burden Hours for SF-424B: Assurances for Non-Construction Programs.

*Estimate of Annual Burden:* 2.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS-1500-35: Certificate Regarding Lobbying Activities.

*Estimate of Annual Burden:* 2.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS-1500-22: Financial Capability Questionnaire.

*Estimate of Annual Burden:* 2.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for Interim Project Progress Report.

*Estimate of Annual Burden:* 6.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.75 hours.

*Title of Collection:* Burden Hours for SF-425: Federal Financial Report.

*Estimate of Annual Burden:* 6.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.75 hours.

*Total Annual Burden for Request for Common Use Forms Is 46 Hours*

*Comment Is Invited:* Comment is invited on: (1) Whether this collection

of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for Office of Management and Budget approval.

**Jaelith Hall Rivera,**

*Deputy Chief, State, Private, and Tribal Forestry.*

[FR Doc. 2023-10450 Filed 5-16-23; 8:45 am]

**BILLING CODE 3411-15-P**

## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

#### **Information Collection; Community Wood Energy and Wood Innovation Program (CFDA 10.708)**

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice; request for comment.

**SUMMARY:** Information collection form FS-1500-0051 is currently used by the Forest Service, United States Department of Agriculture (USDA), to evaluate eligibility and proposed activities of applicants seeking financial support under the Community Wood Energy and Wood Innovation Program. This announcement requests public input on the Forest Service's request to continue to use form FS-1500-0051 which has been approved by the Office of Management and Budget for use through July 31, 2023. The intent of the Community Wood Energy and Wood Innovation Program is to support forest health and stimulate local economies by expanding renewable wood energy use and innovative wood products manufacturing capacity.

**DATES:** Comments related to the collection of information must be submitted by July 17, 2023 to be assured of consideration. Comments received



after that date will be considered to the extent practicable.

**ADDRESSES:** Comments concerning this notice should be addressed to: Julie Tucker, USDA, Forest Service, Cooperative Forestry, 201 14th Street SW, 3NW Washington, DC 20250. Comments may also be submitted via email to: [julie.tucker@usda.gov](mailto:julie.tucker@usda.gov).

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect comments received at USDA Forest Service, Washington Office, during normal business hours. Visitors are encouraged to call ahead to 202-205-0995 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received by emailing the request to [julie.tucker@usda.gov](mailto:julie.tucker@usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Julie Tucker, National Program Manager, Community Wood Energy and Wood Innovation Program, Cooperative Forestry, at 202-253-6483 or by electronic mail to [julie.tucker@usda.gov](mailto:julie.tucker@usda.gov). Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 800-877-8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The grants and agreements awarded under this announcement will support the Rural Revitalization Technologies (7 U.S.C. 6601) and Agriculture Improvement Act of 2018 (Pub. L. 115-334 Section 9013), and Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law, Pub. L. 117-58 Division J Title VI), which supports the installation of thermally-led community wood energy systems or development and expansion of innovative wood product facilities. The intent of the Community Wood Energy and Wood Innovation Program is to support forest health and stimulate local economies by

expanding renewable wood energy use and innovative wood products manufacturing capacity.

Eligible applicants are non-profits; local, state, and tribal governments; businesses, companies, corporations (for profit); institutions of higher education; and special purpose districts (public utility districts, fire districts, conservation districts, school districts, and ports.)

*Title:* Community Wood Energy and Wood Innovation Program.

*OMB Number:* 0596-0257.

*Expiration Date of Approval:* 07/31/2023.

*Type of Request:* Extension with no Revision of a currently approved information collection.

*Abstract:* This solicitation is authorized pursuant to the Rural Revitalization Technologies (7 U.S.C. 6601) and Agriculture Improvement Act of 2018 (Pub. L. 115-334, Title VIII, Subtitle F, Part III), and Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law, Pub. L. 117-58 Division J Title VI), which directly support installation of thermally led community wood energy systems or development and expansion of innovative wood product facilities to promote forest health and stimulate local economies.

*Affected Public:* Individuals and Households, the Private Sector (Businesses and Non-Profit Organizations), and/or State, Local or Tribal Government.

#### **Burden Hours for Public Applicants**

*Title of Collection:* Burden Hours for FS-1500-0051: Community Wood Funding Opportunity Application.

*Estimate of Annual Burden:* 48.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Responses per Respondent:* 16.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

*Title of Collection:* Burden Hours for Screenshot of active or in-process SAM.gov registration.

*Estimate of Annual Burden:* 16.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Responses per Respondent:* 16.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1 hour.

*Total Annual Burden for FS-1500-51 and Screenshot of Sam Is 64 Hours*

Request for Common Use Forms

*Title of Collection:* Burden Hours for FS-1500-35: Certificate Regarding Lobbying Activities.

*Estimate of Annual Burden:* 4.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Responses:* 16.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS-1500-22: Financial Capability Questionnaire.

*Estimate of Annual Burden:* 4.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Responses:* 16.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS-1500-23: Optional Project Performance Report.

*Estimate of Annual Burden:* 48.00 hours.

*Type of Respondents:* Public applicants.

*Estimated Annual Number of Responses:* 16.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

Burden Hours for Tribal and State Applicants

*Title of Collection:* Burden Hours for FS-1500-0051: Community Wood Funding Opportunity Application.

*Estimate of Annual Burden:* 24.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Responses:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

*Title of Collection:* Burden Hours for Screenshot of active or in-process SAM.gov registration.

*Estimate of Annual Burden:* 8.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Responses:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 1 hour.

*Title of Collection:* Burden Hours for FS–1500–35: Certificate Regarding Lobbying Activities.

*Estimate of Annual Burden:* 4.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS–1500–22: Financial Capability Questionnaire.

*Estimate of Annual Burden:* 2.0 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 0.25 hours.

*Title of Collection:* Burden Hours for FS–1500–23: Optional Project Performance Report.

*Estimate of Annual Burden:* 24.00 hours.

*Type of Respondents:* Tribal and State applicants.

*Estimated Annual Number of Respondents:* 8.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3.00 hours.

*Total Annual Burden for Request for Common Use Forms Is 118 Hours*

*Comment Is Invited:* Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a

matter of public record. Comments will be summarized and included in the submission request for Office of Management and Budget approval.

**Jaelith Hall Rivera,**

*Deputy Chief, State, Private, and Tribal Forestry.*

[FR Doc. 2023–10451 Filed 5–16–23; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### **Rossiya Airlines, Pilotov St 18–4, St. Petersburg, Russia, 196210; Order Renewing Temporary Denial of Export Privileges**

Pursuant to section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (“EAR” or “the Regulations”),<sup>1</sup> I hereby grant the request of the Office of Export Enforcement (“OEE”) to renew the temporary denial order (“TDO”) issued in this matter on November 15, 2022. I find that renewal of this order is necessary in the public interest to prevent an imminent violation of the Regulations.

#### **I. Procedural History**

On May 20, 2022, I signed an order denying the export privileges of Rossiya Airlines (“Rossiya”) for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order was issued *ex parte* pursuant to section 766.24(a) of the Regulations and was effective upon issuance.<sup>2</sup> This temporary denial order was subsequently renewed in accordance with section 766.24(d) of the

<sup>1</sup> On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (“ECRA”). While section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. app. 2401 *et seq.* (“EAA”), (except for three sections which are inapplicable here), section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (“IEEPA”), and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

<sup>2</sup> The TDO was published in the **Federal Register** on May 25, 2022 (87 FR 31856).

Regulations.<sup>3</sup> The renewal order was issued on November 15, 2022 and was effective upon issuance.<sup>4</sup>

On April 20, 2023, BIS, through OEE, submitted a written request for renewal of the TDO that issued on November 15, 2022. The written request was made more than 20 days before the TDO’s scheduled expiration. A copy of the renewal request was sent to Rossiya in accordance with sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received.

#### **II. Renewal of the TDO**

##### *A. Legal Standard*

Pursuant to section 766.24, BIS may issue an order temporarily denying a respondent’s export privileges upon a showing that the order is necessary in the public interest to prevent an “imminent violation” of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). “A violation may be ‘imminent’ either in time or degree of likelihood.” 15 CFR 766.24(b)(3). BIS may show “either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.” *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge “is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]” *Id.* A “lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.” *Id.*

##### *B. The TDO and BIS’s Request for Renewal*

The U.S. Commerce Department, through BIS, responded to the Russian Federation’s (“Russia’s”) further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia’s access to technologies and other items that it needs to sustain its aggressive military capabilities. These controls

<sup>3</sup> Section 766.24(d) provides that BIS may seek renewal of a temporary denial order for additional 180-day renewal periods, if it believes that renewal is necessary in the public interest to prevent an imminent violation. Renewal requests are to be made in writing no later than 20 days before the scheduled expiration date of a temporary denial order.

<sup>4</sup> The November 15, 2022 renewal order was published in the **Federal Register** on November 21, 2022 (87 FR 70780).

primarily target Russia's defense, aerospace, and maritime sectors and are intended to cut off Russia's access to vital technological inputs, atrophy key sectors of its industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage. Effective February 24, 2022, BIS imposed expansive controls on aviation-related (e.g., Commerce Control List Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (ECCN) 9A991 (section 746.8(a)(1) of the EAR).<sup>5</sup> BIS will review any export or reexport license applications for such items under a policy of denial. *See* section 746.8(b). Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (AVS) (section 740.15 of the EAR).<sup>6</sup> Accordingly, any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia, is subject to a license

requirement before it can travel to Russia.

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and the evidence developed over the course of this investigation, which indicate a blatant disregard for U.S. export controls, as well as the TDO. Specifically, the initial TDO, issued on May 20, 2022, was based on evidence that Rossiya engaged in conduct prohibited by the Regulations by operating multiple aircraft subject to the EAR and classified under ECCN 9A991.b on flights into Russia after March 2, 2022 from destinations including, but not limited to, Hurghada, Egypt; Sharm el-Sheikh, Egypt; Dubai, United Arab Emirates; and Sharjah, United Arab Emirates, without the required BIS authorization.<sup>7</sup> Further evidence submitted by BIS indicated that Rossiya was continuing to operate aircraft subject to the EAR domestically on flights within Russia, potentially in violation of section 736.2(b)(10) of the Regulations.

As discussed in the November 15, 2022 renewal order, evidence presented by BIS indicated that, after the initial order issued, Rossiya continued to operate aircraft subject to the EAR and classified under ECCN 9A991.b on flights both into and within Russia, in violation of the Regulations and the

TDO itself.<sup>8</sup> Specifically, the November 15, 2022 renewal order detailed that Rossiya has continued to operate aircraft subject to the EAR, which were flown into Russia on or after March 2, 2022, or on flights within Russia, including, but not limited to, between such cities as Anadyr, Russia; Kaliningrad, Russia; Khabarovsk, Russia; Magadan, Russia; and Moscow, Russia, in violation of Section 736.2(b)(10) of the Regulations, as well as into Russia on flights from Antalya and Istanbul, Turkey.

Since that time, Rossiya has continued to engage in conduct prohibited by the applicable TDO and Regulations. In its April 20, 2023 request for renewal of the TDO, BIS submitted evidence that Rossiya is operating aircraft subject to the EAR and classified under ECCN 9A991.b, both on flights into and within Russia, in violation of the November 15, 2022 renewal TDO and/or the Regulations. Specifically, BIS's evidence and related investigation demonstrates that Rossiya has continued to operate aircraft subject to the EAR, including, but not limited to, on flights into and out of Russia from/to Sharm el-Sheikh, Egypt; Hurghada, Egypt; Istanbul, Turkey; and Antalya, Turkey, as well as domestically within Russia. Information about those flights includes, but is not limited to, the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
RA-73188 .....	34900	737-8GJ (B738) .....	Sharm el-Sheikh, EG/Moscow, RU.	March 20, 2023.
RA-73188 .....	34900	737-8GJ (B738) .....	Istanbul, TR/Moscow, RU .....	March 17, 2023.
RA-73188 .....	34900	737-8GJ (B738) .....	Sharm el-Sheikh, Yekaterinburg, RU.	March 16, 2023.
RA-73188 .....	34900	737-8GJ (B738) .....	Hurghada, EG/Moscow, RU ..	March 15, 2023.
RA-73192 .....	34897	737-8GJ (B738) .....	Hurghada, EG/Kazan, RU .....	May 1, 2023.
RA-73192 .....	34897	737-8GJ (B738) .....	Antalya, TR/Moscow, RU .....	April 25, 2023.
RA-73192 .....	34897	737-8GJ (B738) .....	Hurghada, EG/Yekaterinburg, RU.	April 22, 2023.
RA-73192 .....	34897	737-8GJ (B738) .....	Istanbul, TR/Moscow, RU .....	March 16, 2023.
RA-73292 .....	28531	777-312 (B773) .....	Magadan, RU/Moscow, RU ..	April 21, 2023.
RA-73292 .....	28531	777-312 (B773) .....	Moscow, RU/Magadan, RU ..	April 20, 2023.
RA-73292 .....	28531	777-312 (B773) .....	Khabarovsk, RU/Moscow, RU	April 17, 2023.
RA-73292 .....	28531	777-312 (B773) .....	Colombo, LK/Moscow, RU .....	March 16, 2022.
RA-73279 .....	28515	777-312 (B773) .....	Moscow, RU/Anadyr, RU .....	April 27, 2023.
RA-73279 .....	28515	777-312 (B773) .....	Magadan, RU/Anadyr, RU .....	April 25, 2023.
RA-73279 .....	28515	777-312 (B773) .....	Yuzhno-Sakhalinsk, RU/Moscow, RU.	April 20, 2023.
RA-73279 .....	28515	777-312 (B773) .....	Hurghada, EG/Moscow, RU ..	March 7, 2022.
RA-73218 .....	35278	737-8Q8 (B738) .....	Antalya TR/St. Petersburg, RU.	April 26, 2023.
RA-73218 .....	35278	737-8Q8 (B738) .....	Antalya, TR/St. Petersburg, RU.	April 26, 2023.

<sup>5</sup> 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the Commerce Control List ("CCL") under Categories 0-2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses

if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

<sup>6</sup> 87 FR 13048 (Mar. 8, 2022).

<sup>7</sup> Publicly available flight tracking information shows that on March 8, 2022, serial number (SN) 27650 flew from Hurghada, Egypt to Moscow, Russia. On March 6, 2022, SN 41212 flew from Sharm el-Sheikh, Egypt to St. Petersburg, Russia

and SN 44435 flew from Dubai, United Arab Emirates to St. Petersburg, Russia. In addition, on March 7, 2022, SN 41202 flew from Sharjah, United Arab Emirates to Moscow, Russia.

<sup>8</sup> Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
RA-73218 .....	35278	737-8Q8 (B738) .....	Antalya, TR/St. Petersburg, RU.	April 23, 2023.
RA-73218 .....	35278	737-8Q8 (B738) .....	Antalya, TR/Moscow, RU .....	April 22, 2023.
RA-73218 .....	35278	737-8Q8 (B738) .....	Istanbul, TR/Moscow, RU .....	January 27, 2023.

### III. Findings

Under the applicable standard set forth in section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Rossiya has acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Rossiya, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

### IV. Order

*It is therefore ordered:*

*First*, Rossiya Airlines, Pilotov St. 18-4, St. Petersburg, Russia, 196210, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and

authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations.

*Second*, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Rossiya any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Rossiya of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Rossiya acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Rossiya of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations;

D. Obtain from Rossiya in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Rossiya, or service any item, of whatever origin, that is owned, possessed or controlled by Rossiya if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to section 764.3(a)(2) of the Regulations. For purposes of this

paragraph, servicing means installation, maintenance, repair, modification, or testing.

*Third*, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Rossiya by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of sections 766.24(e) of the EAR, Rossiya may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Rossiya as provided in section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Rossiya, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

**Matthew S. Axelrod,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2023-10504 Filed 5-16-23; 8:45 am]

**BILLING CODE 3510-DT-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-147]

### Paper File Folders From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that paper file folders from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is April 1, 2022, through September 30, 2022. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable May 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Zachariah Hall, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6261.

**SUPPLEMENTARY INFORMATION:**

**Background**

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 8, 2022.<sup>1</sup> On February 13, 2023, Commerce postponed the preliminary determination of this investigation until May 10, 2023.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>3</sup> A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

**Scope of the Investigation**

The products covered by this investigation are paper file folders from China. For a complete description of the scope of this investigation, see Appendix I.

**Scope Comments**

In accordance with the *Preamble* to Commerce's regulations,<sup>4</sup> we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments on the record of this investigation, and accompanying discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.<sup>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the revised scope in Appendix I to this notice.

The deadline to submit scope case briefs is established in the Preliminary Scope Decision Memorandum. There will be no further opportunity to comment on scope-related issues.<sup>7</sup>

**Methodology**

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to sections 776(a) and (b) of the Act, we have preliminarily relied upon facts otherwise available, with adverse inferences for the China-wide entity. The China-wide entity includes CRE8 Direct (Ningbo) Co., Ltd., and Ningbo Guangbo Import & Export Co., Ltd., the companies selected for individual examination, because they failed to respond to Commerce's antidumping questionnaire, and all other exporters who failed to respond to Commerce's quantity and value (Q&V) questionnaire and/or failed to submit a separate rate application, as instructed in the *Initiation Notice*.<sup>8</sup> Because no

companies are eligible for a rate separate from the China-wide entity, all exporters of Chinese paper file folders are preliminarily found to be part of the China-wide entity. We assigned the highest margin alleged in the Petition<sup>9</sup> (*i.e.*, 192.70 percent) to the China-wide entity as adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

**Combination Rates**

In the *Initiation Notice*, Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.<sup>10</sup> Policy Bulletin 05.1 describes this practice.<sup>11</sup> In this case, because no companies qualified for a separate rate, producer/exporter combination rates were not calculated for this preliminary determination.<sup>12</sup>

**Preliminary Determination**

Commerce preliminarily determines that the following estimated dumping margin exists:

Exporter/producer	Estimated dumping margin (percent)
China-wide Entity .....	192.70

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR

and Vietnam submit a response to both the Q&V questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status").

<sup>9</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Paper File Folders from China, India, and Vietnam," dated October 12, 2022 (Petition). The petitioner is the Coalition of Domestic Folder Manufacturers. The members of the Coalition of Domestic Folder Manufacturers are: Smead Manufacturing Company, Inc.; and TOPS Products LLC.

<sup>10</sup> *Id.*, 87 FR at 67445-46.

<sup>11</sup> See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>12</sup> See Preliminary Decision Memorandum.

<sup>1</sup> See *Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 87 FR 67441-47 (November 8, 2022) (*Initiation Notice*).

<sup>2</sup> See *Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 88 FR 9226 (February 13, 2023).

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Paper File Folders from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>5</sup> See *Initiation Notice*, 87 FR at 67442.

<sup>6</sup> See Memorandum, "Antidumping Duty Investigations and Countervailing Duty Investigation of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

<sup>7</sup> Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. See Preliminary Scope Decision Memorandum; and the "Public Comment" section of this notice, *infra*.

<sup>8</sup> See *Initiation Notice*, 87 FR at 67446 ("Commerce requires that respondents from China

351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above, as follows: (1) for all Chinese exporters of subject merchandise, the cash deposit rate will be equal to the estimated dumping margin established for the China-wide entity; and (2) for all third-country exporters of subject merchandise, the cash deposit rate is also the cash deposit rate applicable to the China-wide entity. These suspension of liquidation instructions will remain in effect until further notice.

### Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily determined that all companies are part of the China-wide entity and assigned as AFA to the China-wide entity a rate that is based solely on the margin alleged in the Petition, there are no calculations to disclose.

### Verification

Because the mandatory respondents in this investigation did not provide information requested by Commerce by the established deadline and Commerce preliminarily determines in accordance with section 776(b) of the Act that each of the mandatory respondents has been uncooperative, verification will not be conducted.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of the preliminary determination.<sup>13</sup> Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>14</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for

serving documents containing business proprietary information, until further notice.<sup>15</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

### Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.<sup>16</sup>

### U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>16</sup> On April 25, 2023, pursuant to section 735(a)(2)(B) of the Act, the petitioner requested that Commerce postpone the final determination deadline if the preliminary determination is negative. However, as the preliminary determination is affirmative and Commerce has not received a postponement request from exporters who account for a significant proportion of exports of the subject merchandise pursuant to section 735(a)(2)(A) of the Act, the final determination deadline remains 75 days after the date of the preliminary determination in accordance with section 735(a)(1) of the Act.

Dated: May 10, 2023.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### Scope of the Investigation

The products within the scope of this investigation are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term "primarily" as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

*Excluded from the scope are:*

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;
- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- binders consisting of a front cover, back cover, and spine, with or without a flap; to be excluded, a mechanism with two or more metal rings must be included on or adjacent to the interior spine;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (e.g., boxes or cartons);
- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;
- folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms, if any) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (i.e., raised relief patterns that are recessed on the opposite side), and/or debossing (i.e., recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors (other than the color of the base paper), each

<sup>13</sup> See 19 CFR 351.309(c)(1)(i); see also 19 CFR 351.303 (for general filing requirements).

<sup>14</sup> See 19 CFR 351.309(d); see also 19 CFR 351.303 (for general filing requirements).

of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;

- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and

- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Selection of Respondents
- V. Discussion of the Methodology
- VI. Recommendation

[FR Doc. 2023–10484 Filed 5–16–23; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–552–834]

### Paper File Folders From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that paper file folders from the Socialist Republic of Vietnam (Vietnam) are being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2022, through September 30, 2022. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable May 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Janae Martin or William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0238 or (202) 482–4868, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 8, 2022.<sup>1</sup> On February 13, 2023, Commerce postponed the preliminary determination of this investigation until May 10, 2023.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.<sup>3</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Scope of the Investigation

The product covered by this investigation is paper file folders from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,<sup>4</sup> we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it

<sup>1</sup> *See Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 87 FR 67441 (November 8, 2022) (*Initiation Notice*).

<sup>2</sup> *See Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 88 FR 9226 (February 13, 2023).

<sup>3</sup> *See* Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Paper File Folders from the Socialist Republic of Vietnam,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>5</sup> *See Initiation Notice*, 87 FR at 67442.

appeared in the *Initiation Notice*. For a summary of the product coverage comments on the record of this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.<sup>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the revised scope in Appendix I to this notice.

The deadline to submit scope case briefs is established in the Preliminary Scope Decision Memorandum. There will be no further opportunity to comment on scope-related issues.<sup>7</sup>

#### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Because Vietnam is a non-market economy country, within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, for CRE8 Direct (HK) Co., Limited (CRE8 Direct HK) and Fairton Asia Limited (Fairton), among other companies which did not establish their eligibility for a separate rate and are considered part of the Vietnam-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

#### Vietnam-Wide Entity

Commerce finds that eight companies, including CRE8 Direct HK and Fairton, have not established eligibility for a separate rate and are considered to be part of the Vietnam-wide entity for the preliminary determination.<sup>7</sup> For a complete list of these companies, *see* Appendix III.

<sup>6</sup> *See* Memorandum, “Antidumping Duty Investigations and Countervailing Duty Investigation of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,” dated concurrently with this notice (Preliminary Scope Decision Memorandum).

<sup>7</sup> Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. *See* Preliminary Scope Decision Memorandum; and the “Public Comment” section of this notice, *infra*.



**Combination Rates**

In the *Initiation Notice*,<sup>8</sup> Commerce stated that it would calculate producer/exporter combination rates for the

respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.<sup>9</sup>

**Preliminary Determination**

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter	Producer	Estimated weighted-average dumping margin (percent)
Three-Color Stone Stationary (Viet Nam) Company Limited	Three-Color Stone Stationary (Viet Nam) Company Limited	324.70
Vietnam-wide Entity .....	.....	324.70

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price, as indicated in the chart above as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnam producers/exporters of subject merchandise that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-country exporters of subject merchandise not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or the Vietnam-wide entity) that supplied that third-country exporter. These suspension of liquidation instructions will remain in effect until further notice.

**Disclosure**

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement or, if there is no public announcement,

within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

**Verification**

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>10</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>11</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a

request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Postponement of Final Determination and Extension of Provisional Measures**

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner.<sup>12</sup> Pursuant to 19 CFR 351.210(e)(2), Commerce requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On May 9, 2023, pursuant to 19 CFR 351.210(e), Three-Color Stone Stationery (Viet Nam) Company Limited (TCS) requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>13</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final

Smead Manufacturing Company, Inc.; and TOPS Products LLC.

<sup>13</sup> See TCS's Letter, "Three-Color Stone Stationery (Viet Nam) Company Limited: Postponement of Final Determination and Extension of Provisional Measures Period," dated May 9, 2023.

<sup>8</sup> See *Initiation Notice*, 87 FR at 67446.

<sup>9</sup> See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <https://enforcement.trade.gov/policy/bull05-1.pdf>.

<sup>10</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

<sup>11</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>12</sup> The petitioner is the Coalition of Domestic Folder Manufacturers. The members of the Coalition of Domestic Folder Manufacturers are:



determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce's final determination will be issued no later than 135 days after the date of publication of this preliminary determination.

### U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: May 10, 2023.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### Scope of the Investigation

The products within the scope of the investigation are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term "primarily" as used in the first sentence of this scope means 50 percent or more of the total product weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

*Excluded from the scope are:*

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;

- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;
- binders consisting of a front cover, back cover, and spine, with or without a flap; to be excluded, a mechanism with two or more metal rings must be included on or adjacent to the interior spine;
- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (e.g., boxes or cartons);
- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;
- folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms, if any) that is covered entirely with fabric, leather, and/or faux leather;
- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (i.e., raised relief patterns that are recessed on the opposite side), and/or debossing (i.e., recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors (other than the color of the base paper), each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;
- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and
- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

### Appendix II

#### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Selection of Respondents
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

### Appendix III

#### Companies Preliminarily Not Eligible for a Separate Rate and Treated as Part of the Vietnam-Wide Entity

1. Changyuan Vietnam Co., Ltd.

2. CRE8 Direct (HK) Co., Limited
3. Deli Vietnam Co., Ltd.
4. Fairton Asia Limited
5. Fuda Stationery (Vietnam) Factory
6. Guangbo Vietnam Company, Ltd.
7. Vietnam Cailan Industry Co., Ltd.
8. Teamade Stationery Vietnam Co., Ltd.

[FR Doc. 2023–10483 Filed 5–16–23; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–533–910]

#### Paper File Folders From India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that paper file folders from India are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2021, through September 30, 2022. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable May 17, 2023.

**FOR FURTHER INFORMATION CONTACT:** Eric Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1988.

#### SUPPLEMENTARY INFORMATION:

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 8, 2022.<sup>1</sup> On February 13, 2023, Commerce postponed the preliminary determination of this investigation until May 10, 2023.<sup>2</sup>

For a complete description of the events that followed the initiation of this investigation, see the Preliminary

<sup>1</sup> See *Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 87 FR 67441 (November 8, 2022) (Initiation Notice).

<sup>2</sup> See *Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 88 FR 9226 (February 13, 2023).

Decision Memorandum.<sup>3</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Scope of the Investigation

The products covered by this investigation are paper file folders from India. For a complete description of the scope of this investigation, see Appendix I.

### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,<sup>4</sup> we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage (*i.e.*, scope).<sup>5</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments on the record of this investigation, and accompanying

discussion and analysis of all comments timely received, see the Preliminary Scope Decision Memorandum.<sup>6</sup> As discussed in the Preliminary Scope Decision Memorandum, Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the revised scope in Appendix I to this notice.

The deadline to submit scope case briefs is established in the Preliminary Scope Decision Memorandum. There will be no further opportunity to comment on scope-related issues.<sup>7</sup>

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export price for Navneet Education Limited (Navneet) in accordance with section 772(a) of the Act. Normal value for Navneet is calculated using constructed value in accordance with section 773 of the Act. In addition, Commerce has relied on facts available with an adverse inference in determining a weighted-average dumping margin for Kokuyo Riddhi Paper Products Pvt. Ltd (Kokuyo) and LGPL Paper Industries Pvt (LGPL) under sections 776(a) and (b) of the Act. For a full description of the methodology underlying the preliminary determination, see the Preliminary Decision Memorandum.

### All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce calculated an individual estimated weighted-average dumping margin for Navneet, the only individually examined exporter/producer which is participating in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Navneet is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Producer/exporter	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Navneet Education Limited .....	15.07	11.42
Kokuyo Riddhi Paper Products Pvt. Ltd .....	* 86.01	* 82.36
LGPL Paper Industries Pvt .....	* 86.01	* 82.36
All Others .....	15.07	11.42

\* Adverse Facts Available (AFA).

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to

the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for

that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Paper File Folders from India," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>5</sup> See *Initiation Notice*, 87 FR at 67442.

<sup>6</sup> See Memorandum, "Antidumping Duty Investigations and Countervailing Duty Investigation of Paper File Folders from the People's Republic of China, India, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum," dated concurrently with this notice (Preliminary Scope Decision Memorandum).

<sup>7</sup> Case briefs and rebuttal briefs submitted in response to this preliminary LTFV determination should not include scope-related issues. See Preliminary Scope Decision Memorandum and the "Public Comment" section of this notice, *infra*.

when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate.<sup>8</sup> Any such adjusted cash deposit rate may be found in the “Preliminary Determination” section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

### Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

### Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Because Kokuyo and LGPL did not provide information requested by Commerce, and Commerce preliminarily determines both respondents to have been uncooperative, we will not conduct verification of the information reported by Kokuyo and LGPL.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>9</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each

argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>10</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On April 21, 2023, pursuant to 19 CFR 351.210(e), Navneet requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.<sup>11</sup> On April 25, 2023, the Coalition of Domestic Folder Manufacturers (the petitioner)<sup>12</sup>

requested that, pursuant to 19 CFR 351.210(e), Commerce postpone the final determination in the event of a negative preliminary determination.<sup>13</sup> In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, pursuant to section 735(a)(2) of the Act, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

### U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of paper file folders from India are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: May 10, 2023.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### Scope of the Investigation

The products within the scope of this investigation are file folders consisting primarily of paper, paperboard, pressboard, or other cellulose material, whether coated or uncoated, that has been folded (or creased in preparation to be folded), glued, taped, bound, or otherwise assembled to be suitable for holding documents. The scope includes all such folders, regardless of color, whether or not expanding, whether or not laminated, and with or without tabs, fasteners, closures, hooks, rods, hangers, pockets, gussets, or internal dividers. The term “primarily” as used in the first sentence of this scope means 50 percent or more of the total product

<sup>8</sup> See *Paper File Folders from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With the Final Antidumping Duty Determination*, 88 FR 16590 (March 20, 2023), and accompanying Preliminary Decision Memorandum.

<sup>9</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

<sup>10</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

<sup>11</sup> See Navneet's Letter, “Navneet Extension Request for Final Determination,” dated April 21, 2023.

<sup>12</sup> The members of the Coalition of Domestic Folder Manufacturers are: Smead Manufacturing Company, Inc.; and TOPS Products LLC.

<sup>13</sup> See Petitioner's Letter, “Paper File Folders from China, India, and Vietnam/Petitioner's Request for Postponement of the Final Determination,” dated April 25, 2023.

weight, exclusive of the weight of fasteners, closures, hooks, rods, hangers, removable tabs, and similar accessories, and exclusive of the weight of packaging.

Subject folders have the following dimensions in their folded and closed position: lengths and widths of at least 8 inches and no greater than 17 inches, regardless of depth.

The scope covers all varieties of folders, including but not limited to manila folders, hanging folders, fastener folders, classification folders, expanding folders, pockets, jackets, and wallets.

*Excluded from the scope are:*

- mailing envelopes with a flap bearing one or more adhesive strips that can be used permanently to seal the entire length of a side such that, when sealed, the folder is closed on all four sides;

- binders, with two or more rings to hold documents in place, made from paperboard or pressboard encased entirely in plastic;

- binders consisting of a front cover, back cover, and spine, with or without a flap; to be excluded, a mechanism with two or more metal rings must be included on or adjacent to the interior spine;

- non-expanding folders with a depth exceeding 2.5 inches and that are closed or closeable on the top, bottom, and all four sides (e.g., boxes or cartons);

- expanding folders that have (1) 13 or more pockets, (2) a flap covering the top, (3) a latching mechanism made of plastic and/or metal to close the flap, and (4) an affixed plastic or metal carry handle;

- folders that have an outer surface (other than the gusset, handles, and/or closing mechanisms, if any) that is covered entirely with fabric, leather, and/or faux leather;

- fashion folders, which are defined as folders with all of the following characteristics: (1) plastic lamination covering the entire exterior of the folder, (2) printing, foil stamping, embossing (i.e., raised relief patterns that are recessed on the opposite side), and/or debossing (i.e., recessed relief patterns that are raised on the opposite side), covering the entire exterior surface area of the folder, (3) at least two visible and printed or foil stamped colors (other than the color of the base paper), each of which separately covers no less than 10 percent of the entire exterior surface area, and (4) patterns, pictures, designs, or artwork covering no less than thirty percent of the exterior surface area of the folder;

- portfolios, which are folders having (1) a width of at least 16 inches when open flat, (2) no tabs or dividers, and (3) one or more pockets that are suitable for holding letter size documents and that cover at least 15 percent of the surface area of the relevant interior side or sides; and

- report covers, which are folders having (1) no tabs, dividers, or pockets, and (2) one or more fasteners or clips, each of which is permanently affixed to the center fold, to hold papers securely in place.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) category 4820.30.0040. Subject imports may also enter under other HTSUS classifications. While the HTSUS subheading is provided for

convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application of Facts Available and Use of Adverse Inference
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

[FR Doc. 2023–10482 Filed 5–16–23; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XD012]

#### Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council (Pacific Council) will convene three Stock Assessment Review (STAR) Panel meetings to review 2023 stock assessments for copper rockfish in California, rex sole, shortspine thornyhead, black rockfish, petrale sole, and canary rockfish. The meetings will be co-hosted by the NMFS Northwest and Southwest Fisheries Science Centers. STAR panel meetings are open to the public and being conducted in person with a web broadcast that provides the opportunity for remote listening and public comment.

**DATES:** The STAR panel meeting (STAR Panel 1) to review new assessments for copper rockfish in California, rex sole, and shortspine thornyhead will be held Monday, June 5, 2023 and will continue through Friday, June 9, 2023, from 8:30 a.m. until 5:30 p.m. (Pacific Daylight Time) each day, or when business for the day has been completed.

The STAR panel meeting (STAR Panel 2) to review new assessments for black rockfish will be held Monday, July 10, 2023 and will continue through Friday, July 14, 2023, beginning at 8:30 a.m. and ending at 5:30 p.m. each day, or when business for the day has been completed.

The STAR panel meeting (STAR Panel 3) to review new assessments for

petrale sole and canary rockfish will be held Monday, July 24, 2023 and will continue through Friday, July 28, 2023, from 8:30 a.m. until 5:30 p.m. (Pacific Daylight Time) or when business for the day has been completed.

**ADDRESSES:** The STAR panels for copper rockfish in California, rex sole, and shortspine thornyhead (STAR Panel 1), and for petrale sole and canary rockfish (STAR Panel 3) will be held in the Auditorium at the National Marine Fisheries Service, Northwest Fisheries Science Center, 2725 Montlake Boulevard E, Seattle, WA 98112; telephone: (206) 860–3200.

The STAR panel for black rockfish (STAR Panel 2) will be held at the National Marine Fisheries Service, Southwest Fisheries Science Center, Santa Cruz Laboratory, 110 McAllister Way, Santa Cruz, CA 95060; telephone: (831) 420–3900.

These meetings are being conducted in person with a web broadcast that provides the opportunity for remote public comment. Specific meeting information, materials, visitor protocols, and instructions for how to connect to the meeting remotely will be provided in the meeting announcement on the Pacific Council's website (see [www.pcouncil.org](http://www.pcouncil.org)). In the event an outage occurs, or technical issues arise that impact the experience of remote attendees, we will attempt to resolve them but ultimately, we cannot guarantee that they will be resolved satisfactorily.

**Council address:** Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

**FOR FURTHER INFORMATION CONTACT:** Dr. Owen Hamel, NMFS Northwest Fisheries Science Center; telephone: (206) 860–3481; or Marlene A. Bellman, Staff Officer, Pacific Council; telephone: (503) 820–2414, email: [marlene.bellman@noaa.gov](mailto:marlene.bellman@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The purpose of the STAR Panels is to review draft 2023 stock assessment documents and any other pertinent information for copper rockfish in California, rex sole, shortspine thornyhead, black rockfish, petrale sole, and canary rockfish; work with the Stock Assessment Teams to make necessary revisions; and produce STAR Panel reports for use by the Pacific Council and other interested persons for developing management recommendations for fisheries in 2025 and beyond. The review panels will consist of members of the Pacific Council's Scientific and Statistical Committee's Groundfish Subcommittee, at least one independent expert from the

Center for Independent Experts, and other invited expert reviewers. Representatives of the Pacific Council's Groundfish Management Team and the Groundfish Advisory Subpanel will also participate in the review as advisers.

No management actions will be decided by the STAR Panels. The STAR Panel participants' role will be development of recommendations and reports for consideration by the Pacific Council at its September meeting in Spokane, WA.

Although non-emergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Visitors who are foreign nationals (defined as a person who is not a citizen or national of the United States) may require additional security clearance to access the NMFS Northwest and Southwest Fisheries Science Centers. Foreign national visitors to the Northwest Fisheries Science Center (STAR Panel 1 and 3) should contact Dr. Owen Hamel at (206) 860-3481 or to the Southwest Fisheries Science Center (STAR Panel 2) should contact Dr. John Field at (831) 420-3907; at least 2 weeks prior to the meeting date to initiate the security clearance process.

Visitors to the NMFS Northwest Fisheries Science Center will need to obtain a visitor badge. Visitor protocols will be provided in the meeting announcement on the Pacific Council's website (see [www.pcouncil.org](http://www.pcouncil.org)).

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dr. Owen Hamel ([owen.hamel@noaa.gov](mailto:owen.hamel@noaa.gov); (206) 860-

3481) at least 10 days prior to the meeting date.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: May 12, 2023.

**Rey Israel Marquez,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2023-10506 Filed 5-16-23; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XC823]

#### International Affairs; U.S. Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; notification of U.S. fishing opportunities.

**SUMMARY:** We are announcing 2023 fishing opportunities in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area. This action is necessary to make fishing privileges in the NAFO Regulatory Area available on an equitable basis to the extent possible. The intended effect of this notice is to alert U.S. fishing vessels of the NAFO fishing opportunities for yellowtail flounder, redfish, and *Illex* squid, to relay the available quotas available to U.S. participants, and to outline the process and requirements for vessels to apply to participate in the 2023 NAFO fishery.

**DATES:** Effective through December 31, 2023. Expressions of interest regarding fishing opportunities in NAFO will be accepted through June 1, 2023.

**ADDRESSES:** Expressions of interest regarding U.S. fishing opportunities in NAFO should be made in writing to Michael Pentony, U.S. Commissioner to NAFO, NMFS Greater Atlantic Regional Fisheries Office at 55 Great Republic

Drive, Gloucester, MA 01930 (phone: 978-281-9315, email: [Michael.Pentony@noaa.gov](mailto:Michael.Pentony@noaa.gov)).

Information relating to chartering vessels of another NAFO Contracting Party, transferring NAFO fishing opportunities to or from another NAFO Contracting Party, or U.S. participation in NAFO is available from Patrick E. Moran in the NMFS Office of International Affairs, Trade, and Commerce at 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301-427-8370, fax: 301-713-2313, email: [Pat.Moran@noaa.gov](mailto:Pat.Moran@noaa.gov)).

Additional information about NAFO fishing opportunities, NAFO Conservation and Enforcement Measures (CEM), and the High Seas Fishing Compliance Act (HSFCA) Permit required for NAFO participation is available from Shannah Jaburek, in the NMFS Greater Atlantic Regional Fisheries Office at 55 Great Republic Drive, Gloucester, MA 01930 (phone: 978-282-8456, fax: 978-281-9135, email: [Shannah.Jaburek@noaa.gov](mailto:Shannah.Jaburek@noaa.gov)) and online from NAFO at <https://www.nafo.int>.

#### FOR FURTHER INFORMATION CONTACT:

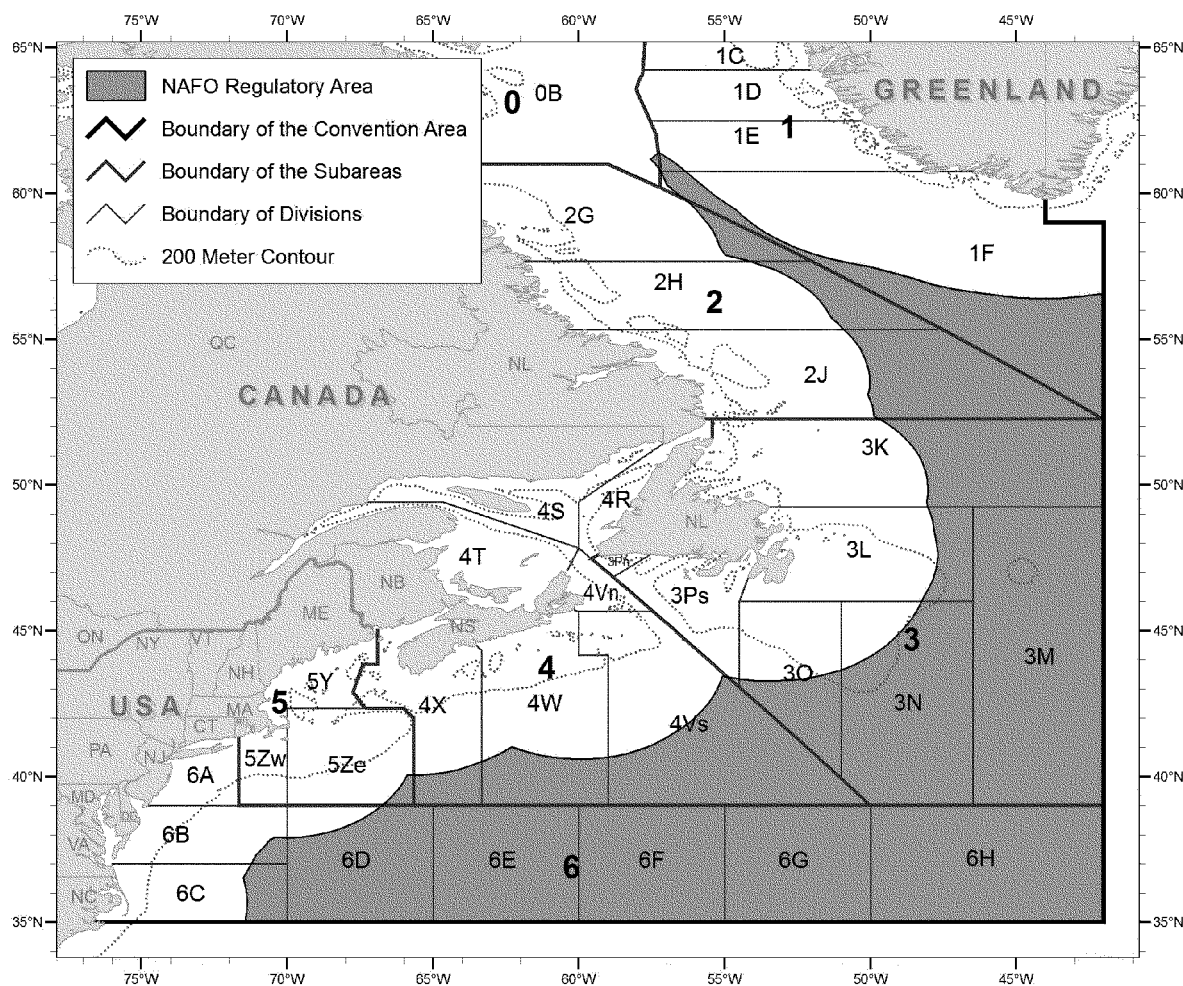
Shannah Jaburek, Fishery Policy Analyst, (978) 282-8456.

#### SUPPLEMENTARY INFORMATION:

##### General NAFO Background

The United States is a Contracting Party to the Northwest Atlantic Fisheries Organization or NAFO. NAFO is an intergovernmental fisheries science and management body whose convention applies to most fishery resources in international waters of the Northwest Atlantic, except salmon, tunas/marlins, whales, and sedentary species, such as shellfish. Currently, NAFO has 12 contracting parties from North America, Europe, Asia, and the Caribbean. NAFO's Commission is responsible for the management and conservation of the fishery resources in the NAFO Regulatory Area (in waters outside the Exclusive Economic Zones (EEZ)). Figure 1 shows the NAFO Regulatory Area.

**Figure 1 -- NAFO Convention Area Including Statistical Subareas, Divisions, and Subdivisions**



As a Contracting Party within NAFO, the United States may be allocated catch quotas or effort allocations for certain species in specific areas within the NAFO Regulatory Area and may participate in fisheries for other species for which we have not received a specific quota. For most stocks for which the United States does not receive a specific allocation, an open allocation, known as the "Others" allocation under the Convention, is shared access between all NAFO Contracting Parties.

Additional information on NAFO can be found online at <https://www.nafo.int/About-us>. The 2023 NAFO Conservation and Enforcement Measures (CEM) that specify the fishery regulations, Total Allowable Catches (TAC or "quotas") and other information about the fishery program will be available online at: <https://www.nafo.int/Fisheries/Conservation> when completed. Information from the 2022 Annual

Meeting of NAFO, at which changes to the TACs and other management measures occur, is available on the NAFO website.

This notice announces the fishing opportunities available to U.S. vessels in NAFO regulatory waters, including specific 2023 stocks for which the United States has an allocation under NAFO, and fishing opportunities under the "Other" NAFO allocations. This notice also outlines the application process and other requirements for U.S. vessels that wish to participate in the 2023 NAFO fisheries.

#### **NAFO Fishing Opportunities Available to U.S. Fishing Vessels**

The principal species managed by NAFO are Atlantic cod, yellowtail and witch flounders, Acadian redfish, American plaice, Greenland halibut, white hake, capelin, shrimp, skates, and *Illex* squid. NAFO specifies conservation measures for fisheries on

these species occurring in its Regulatory Area, including TACs for these managed species that are allocated among NAFO Contracting Parties. The United States received quota allocations at the 2022 NAFO Annual Meeting for two stocks to be fished during 2023. The species, location by NAFO subarea, and allocation (in metric tons (mt)) of these 2023 U.S. fishing opportunities are as follows: Redfish in Division 3M, 69 mt; and *Illex* Squid in Subareas 3 & 4, 453 mt. In addition, the United States received a transfer of 1,000 mt of NAFO Division 3LNO yellowtail flounder from Canada's 2023 quota allocation consistent with the continuation of a 2008 bilateral arrangement between the two countries.

The TACs that may be available to U.S. vessels for stocks where the United States has not been allocated quota (*i.e.*, the "Others" allocation in Annex I.A of the CEM) are as follows:

TABLE 1—2023 NAFO “OTHERS” ALLOCATIONS

Species	NAFO division	Others quota
Cod .....	3M .....	24
Redfish .....	3LN .....	109
	3M .....	124
	3O .....	100
Yellowtail Flounder .....	3LNO .....	100
Witch Flounder .....	3NO .....	13
White Hake .....	3NO .....	59
Skates .....	3LNO .....	258
<i>Illex</i> squid .....	Squid 3_4 (Sub-Areas 3+4) .....	794

Note that the United States shares the “Other” allocations with other NAFO Contracting Parties, and access is on a first come, first served basis. Directed fishing is prohibited by NAFO when the “Others” quota for a particular stock has been fully harvested.

Additional directed quota for these and other stocks managed within the NAFO Regulatory Area could be made available to U.S. vessels through industry-initiated chartering arrangements or government-to-government transfers of quota from other NAFO Contracting Parties.

U.S. vessels participating in NAFO may also retain bycatch of NAFO managed species to the following maximum amounts as outlined in Article 6 of the CEM. The percentage, by weight, is calculated as a percent of each stock of the total catch of species listed in CEM Annex I.A (*i.e.*, the NAFO managed stocks listed in Table 1) retained onboard from the applicable division at the time of inspection, based on logbook information:

1. Cod, Division 3M: 1,250 kg or 5 percent, whichever is more;
2. Witch Flounder, Division 3NO: 1,250 kg or 5 percent, whichever is more;
3. Redfish, Division 3LN: 1,250 kg or 5 percent, whichever is more;
4. Cod, Division 3NO: 1,000 kg or 4 percent, whichever is more;
5. American plaice: While conducting a directed fishery for yellowtail flounder in Divisions 3LNO—15 percent of American plaice; otherwise, 1,250 kg or 5 percent, whichever is greater; and
6. For all other Annex I.A stocks where the United States has no specific quota, the bycatch limit is, 2,500 kg or 10 percent unless a ban on fishing applies or the quota for the stock has been fully utilized. If the fishery for the stock is closed or a retention ban applies, the permitted bycatch limit is 1,250 kg or 5 percent.

Opportunities to fish for species not listed above (*i.e.*, species listed in Annex I.A of the NAFO CEM and non-allocated on non-regulated species), but

occurring within the NAFO Regulatory Area such as Atlantic halibut, may also be available. U.S. fishermen interested in fishing for these other species should contact the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**) for additional information. Authorization to fish for such species will include permit-related conditions or restrictions, including but not limited to, minimum size requirements, bycatch-related measures, and catch limits. Any such conditions or restrictions will be designed to ensure the optimum utilization, long-term sustainability, and rational management and conservation of fishery resources in the NAFO Regulatory Area, consistent with the Convention on Cooperation in the Northwest Atlantic Fisheries as well as the Amendment to the Convention on Cooperation in the Northwest Atlantic Fisheries, which has been adopted by all NAFO Contracting Parties.

#### Applying for These Fishing Opportunities

Expressions of interest to fish for any or all of the 2023 U.S. fishing opportunities in NAFO described above will be considered from all U.S. fishing interests (*e.g.*, vessel owners, processors, agents, others). Applicants are urged to carefully review and thoroughly address the application requirements and selection criteria as detailed below. Expressions of interest should be directed in writing to Regional Administrator Michael Pentony (see **ADDRESSES**).

#### Information Required in an Application Letter

Expressions of interest should include a detailed description of anticipated fishing operations in 2023. Descriptions should include, at a minimum:

- Intended target species;
- Proposed dates of fishing operations;
- Vessel(s) to be used to harvest fish, including the name, registration, and home port of the intended harvesting vessel(s);

- The number of fishing personnel and their nationality involved in vessel operations;

- Intended landing port or ports; including for ports outside of the United States, whether or not the product will be shipped to the United States for processing;

- Processing facilities to be used;
- Target market for harvested fish; and,

- Evidence demonstrating the ability of the applicant to successfully conduct fishing operations in the NAFO Regulatory Area, in accordance with NAFO management measures. This may include descriptions of previously successful NAFO or domestic fisheries participation.

Note that applicant U.S. vessels must possess or be eligible to receive a valid High Seas Fishing Compliance Act (HSFCA) permit. HSFCA permits are available from the NMFS Greater Atlantic Regional Fisheries Office. Information regarding other requirements for fishing in the NAFO Regulatory Area is detailed below and is also available from the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**).

U.S. applicants wishing to harvest U.S. allocations using a vessel from another NAFO Contracting Party, or hoping to enter a chartering arrangement with a vessel from another NAFO Contracting Party, should see below for details on U.S. and NAFO requirements for such activities. If you have further questions regarding what information is required in an expression of interest, please contact Patrick Moran (see **ADDRESSES**).

#### Criteria Used in Identifying Successful Applicants

Applicants demonstrating the greatest benefits to the United States through their intended operations will be most successful. Such benefits may include:

- The use of U.S. vessels and crew to harvest fish in the NAFO Regulatory Area;



- Positive impacts on U.S. employment as a result of the fishing, transport, or processing operations;
- Use of U.S. processing facilities;
- Transport, marketing, and sales of product within the United States; and,
- Other ancillary demonstrable benefits to U.S. businesses as a result of the fishing operation.

Other factors we may consider include, but are not limited to: A documented history of successful fishing operations in NAFO or other similar fisheries; the history of compliance by the vessel with the NAFO CEM or other domestic and international regulatory requirements, including potential disqualification of an applicant with repeated compliance issues; and, for those applicants without NAFO or other international fishery history, a description of demonstrated harvest, processing, marketing, and regulatory compliance within domestic fisheries.

To ensure equitable access by U.S. fishing interests, we may provide additional guidance or procedures, or we may issue regulations designed to allocate fishing interests to one or more U.S. applicants from among qualified applicants. After reviewing all requests for allocations submitted, we may also decide not to grant any allocations if it is determined that no requests adequately meet the criteria described in this notice.

#### *Notification of Selected Vessels in the 2023 NAFO Fisheries*

We will provide written responses to all applicants notifying them of their application status and, as needed for successful applicants, allocation awards will be made as quickly as possible so that we may notify NAFO and take other necessary actions to facilitate operations in the Regulatory Area by U.S. fishing interests. Successful applicants will receive additional information from us on permit conditions and applicable regulations before starting 2023 fishing operations.

#### *Mid-Season Allocation Adjustments*

In the event that an approved U.S. entity does not, is not able to, or is not expected to fish an allocation, or part thereof, awarded to them, NMFS may reallocate to other approved U.S. entities. If requested, approved U.S. entities must provide updated fishing plans and/or schedules. A U.S. entity may not consolidate or transfer allocations without prior approval from NMFS.

#### *Chartering a Vessel To Fish Available U.S. Allocations*

Under the bilateral arrangement with Canada, the United States may enter into a chartering (or other) arrangement with a Canadian vessel to harvest the transferred yellowtail flounder. For other NAFO-regulated species listed in Annexes I.A and I.B, the United States may enter into a chartering arrangement with a vessel from any other NAFO Contracting Party. Additionally, any U.S. vessel or fishing operation may enter into a chartering arrangement with any other vessel or business from a NAFO Contracting Party. The United States and the other Contracting Party involved in a chartering arrangement must agree to the charter, and the NAFO Executive Secretary must be advised of the chartering arrangement before the commencement of any charter fishing operations. Any U.S. vessel or fishing operation interested in making use of the chartering provisions of NAFO must provide at least the following information: The name and registration number of the U.S. vessel; a copy of the charter agreement; a detailed fishing plan; a written letter of consent from the applicable NAFO Contracting Party; the date from which the vessel is authorized to commence fishing; and the duration of the charter (not to exceed 6 months).

Expressions of interest using another NAFO Contracting Party vessel under charter should be accompanied by a detailed description of anticipated benefits to the United States, as described above. Additional detail on chartering arrangements can be found in Article 26 of the CEM (<https://www.nafo.int/Fisheries/Conservation>).

Any vessel from another Contracting Party wishing to enter into a chartering arrangement with the United States must be in full current compliance with the requirements outlined in the NAFO Convention and CEM. These requirements include, but are not limited to, submission of the following reports to the NAFO Executive Secretary:

- Notification that the vessel is authorized by its flag state to fish within the NAFO Regulatory Area during 2023;
- Provisional monthly catch reports for all vessels of that NAFO Contracting Party operating in the NAFO Regulatory Area;
- Daily catch reports for each day fished by the subject vessel within the Regulatory Area;
- Observer reports within 30 days following the completion of a fishing trip; and
- An annual statement of actions taken by its flag state to comply with the NAFO Convention.

The United States may also consider the vessel's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before authorizing the chartering arrangement.

#### *Transfer of U.S. Quota Allocations to Another NAFO Party*

Under NAFO rules in effect for 2023, the United States may transfer fishing opportunities by mutual agreement with another NAFO Contracting Party and with prior notification to the NAFO Executive Secretary. An applicant may request to arrange for any of the previously described U.S. opportunities to be transferred to another NAFO party, although such applications will likely be given lesser priority than those that involve more direct harvesting or processing by U.S. entities. Applications to arrange for a transfer of U.S. fishing opportunities should contain a letter of consent from the receiving NAFO Contracting Party, and should also be accompanied by a detailed description of anticipated benefits to the United States. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before entering agreeing to a transfer.

#### *Receiving a Transfer of NAFO Quota Allocations From Another NAFO Party*

Under NAFO rules in effect for 2023, the United States may receive transfers of additional fishing opportunities from other NAFO Contracting Parties. We are required to provide a letter consenting to such a transfer and must provide notice to the NAFO Executive Secretary. In the event that an applicant is able to arrange for the transfer of additional fishing opportunities from another NAFO Contracting Party to the United States, the United States may agree to facilitate such a transfer. However, there is no guarantee that if an applicant has facilitated the transfer of quota from another Contracting Party to the United States, such applicant will receive authorization to fish for such quota. If quota is transferred to the United States, we may need to solicit new applications for the use of such quota. All applicable NAFO requirements for transfers must be met. As in the case of chartering operations, the United States may also consider a NAFO Contracting Party's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before agreeing to accept a transfer. Any fishing quota or other harvesting opportunities received via this type of



transfer are subject to all U.S and NAFO rules as detailed below.

For more details on NAFO requirements for chartering and transferring NAFO allocations, contact Patrick Moran (see **ADDRESSES**).

#### Fishing in the NAFO Regulatory Area

U.S. applicant vessels must be in possession of, or obtain, a valid HSFCA permit, which is available from the NMFS Greater Atlantic Regional Fisheries Office. All permitted vessels must comply with any conditions of this permit and all applicable provisions of the Convention on Cooperation in the Northwest Atlantic Fisheries and the CEM. We reserve the right to impose additional permit conditions that ensure compliance with the NAFO Convention and the CEM, the Magnuson-Stevens Fishery Conservation and Management Act, and any other applicable law.

The CEM provisions include, but are not limited to:

- Maintaining a fishing logbook with NAFO-designated entries (Annex II.A and Article 28);
- Adhering to NAFO hail system requirements (Annexes II.D and II.F; Article 28);
- Carrying an approved onboard observer for each trip consistent with requirements of Article 30;
- Maintaining and using a functioning, autonomous vessel monitoring system authorized by issuance of the HSFCA permit as required by Articles 29 and 30; and
- Complying with all relevant NAFO CEM requirements, including minimum fish sizes, gear, bycatch retention, and per-tow move on provisions for exceeding bycatch limits in any one haul/set.

Further details regarding U.S. and NAFO requirements are available from

the NMFS Greater Atlantic Regional Fisheries Office, and can also be found in the NAFO CEM on the internet (<https://www.nafo.int/Fisheries/Conservation>).

Vessels issued valid HSFCA permits under 50 CFR part 300 are exempt from certain domestic fisheries regulations governing fisheries in the Northeast United States found in 50 CFR part 648. These exemptions are conditional on the following requirements: The vessel operator has a letter of authorization issued by the Regional Administrator on board the vessel; for the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the U.S. EEZ; when transiting the U.S. EEZ, all gear is properly stowed and not available for immediate use as defined under § 648.2; and the vessel operator complies with the provisions, conditions, and restrictions specified on the HSFCA permit and all NAFO CEM while fishing in the NAFO Regulatory Area.

Dated: May 12, 2023.

**Alexa Cole,**

*Director, NOAA Fisheries Office of International Affairs, Trade, and Commerce.*

[FR Doc. 2023–10522 Filed 5–16–23; 8:45 am]

**BILLING CODE 3510–22–P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[RTID 0648–XD017]

##### Endangered and Threatened Species; Take of Anadromous Fish

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of 17 scientific research permits.

**SUMMARY:** Notice is hereby given that NMFS has issued 17 scientific research permits under the Endangered Species Act (ESA) to the individuals and organizations listed in Table 1. The research is intended to increase knowledge of species listed under the ESA and to help guide management and conservation efforts.

**ADDRESSES:** The permits and related documents are available for review upon written request via email to [nmfs.wcr-research-permits@noaa.gov](mailto:nmfs.wcr-research-permits@noaa.gov) (please include the permit number in the subject line of the email).

**FOR FURTHER INFORMATION CONTACT:** Diana Dishman, Portland, OR (ph.: 503–736–4466, email: [Diana.Dishman@noaa.gov](mailto:Diana.Dishman@noaa.gov)).

**SUPPLEMENTARY INFORMATION:** Notice was published in the **Federal Register** on the dates listed below that requests for permits and permit modifications had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the applications and a complete description of the research, go to <https://www.federalregister.gov> and search on the permit number and **Federal Register** notice information provided in the table below.

TABLE 1—ISSUED PERMITS AND PERMIT MODIFICATIONS

Permit No.	RTID	Applicant	Previous <b>Federal Register</b> notice	Issuance date
1124–7R .....	0648–XC294 ...	Idaho Department of Fish and Game; 1800 Trout Rd.; Eagle, ID 83616 (Responsible Party: Lance Hebdon).	87 FR 52745, August 29, 2022 .....	October 5, 2022.
1585–5R .....	0648–XC294 ...	Washington Department of Natural Resources; 950 Farman Avenue North; Enumclaw, WA 98022 (Responsible Party: Alan Mainwaring).	87 FR 52745, August 29, 2022 .....	October 11, 2022.
14283–4R ...	0648–XC294 ...	Environmental Assessment Services; 350 Hills St. Suite 112; Richland, WA 99354 (Responsible Party: Cole Lindsey).	87 FR 52745, August 29, 2022 .....	October 13, 2022.
15730–3R ...	0648–XC294 ...	Salmon Protection and Watershed Network; P.O. Box 370; Forest Knolls, CA 94933 (Responsible Party: Todd Steiner).	87 FR 52745, August 29, 2022 .....	January 5, 2023.
16110–3R ...	0648–XC294 ...	Marin Municipal Water District; 220 Nellen Ave.; Corte Madera, CA 94925 (Responsible Party: Jonathan Koehler).	87 FR 52745, August 29, 2022 .....	January 1, 2023.
16417–4R ...	0648–XC294 ...	Santa Clara Valley Water District; 5750 Almaden Expressway; San Jose, CA 95118 (Responsible Party: Rick Callender).	87 FR 52745, August 29, 2022 .....	January 18, 2023.
16446–3R ...	0648–XC294 ...	Confederated Tribes of the Umatilla Indian Reservation; Nixyáawii Governance Center; Pendleton, OR 97801 (Responsible Party: Gene Shippentower).	87 FR 52745, August 29, 2022 .....	October 3, 2022.
16979–3R ...	0648–XC294 ...	Washington Department of Fish and Wildlife, Fish Management Division; 600 Capitol Way North; Olympia, WA 98501–1091 (Responsible Party: Michael Tonseth).	87 FR 52745, August 29, 2022 .....	October 24, 2022.
17428–4R ...	0648–XC294 ...	U.S. Fish and Wildlife Service, Lodi Fish and Wildlife Office; 2800 Cottage Way; Sacramento, CA 95826 (Responsible Party: Erin Strange).	87 FR 52745, August 29, 2022 .....	January 1, 2023.
17851–4R ...	0648–XC294 ...	Coastal Watershed Institute; P.O. Box 266; Port Angeles, WA 98362 (Responsible Party: Dr. J. Anne Shaffer).	87 FR 52745, August 29, 2022 .....	January 1, 2023.

TABLE 1—ISSUED PERMITS AND PERMIT MODIFICATIONS—Continued

Permit No.	RTID	Applicant	Previous <b>Federal Register</b> notice	Issuance date
18001–4R ...	0648–XC294 ...	Pierce County Washington Department of Public Works and Utilities; 2702 S 42nd St., Ste 201; Tacoma, WA 98409–7322 (Responsible Party: Erick Thompson).	87 FR 52745, August 29, 2022 .....	January 1, 2023.
20792–2R ...	0648–XC294 ...	FISHBIO Inc.; 1617 South Yosemite Ave.; Oakdale, CA 95361 (Responsible Party: Andrea Fuller).	87 FR 52745, August 29, 2022 .....	January 1, 2023.
21571–3R ...	0648–XC294 ...	U.S. Geological Survey; 5501–A Cook-Underwood Rd.; Cook, WA 98605 (Responsible Party: Amy Hansen).	87 FR 52745, August 29, 2022 .....	October 11, 2022.
22127–2R ...	0648–XC294 ...	U.S. Fish and Wildlife Service; 500 Desmond Drive SE; Lacey, WA 98503 (Responsible Party: Roger Peters).	87 FR 52745, August 29, 2022 .....	January 1, 2023.
26368 .....	0648–XC294 ...	Idaho State University; 1856 S 3rd Ave.; Pocatello, ID 93201 (Responsible Party: Tyler Breech).	87 FR 52745, August 29, 2022 .....	October 6, 2022.
26412 .....	0648–XC294 ...	FISHBIO Inc.; 3188 Wood Creek Drive; Chico, CA 95928 (Responsible Party: Doug Demko).	87 FR 52745, August 29, 2022 .....	January 6, 2023.
26626 .....	0648–XC294 ...	National Park Service, Olympic National Park; 600 East Park Ave., Port Angeles, WA 98362 (Responsible party: Sam Brenkman).	87 FR 52745, August 29, 2022 .....	October 7, 2022.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

#### Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on finding that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Dated: May 11, 2023.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2023–10445 Filed 5–16–23; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 9:00 a.m. EDT, Wednesday, May 24, 2023.

**PLACE:** Virtual meeting.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

Examinations and enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the

Commission's website at <https://www.cftc.gov/>.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, 202–418–5964. *Authority:* 5 U.S.C. 552b.

Dated: May 15, 2023.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

[FR Doc. 2023–10662 Filed 5–15–23; 4:15 pm]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0037]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Prison Education Program Application

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

**DATES:** Interested persons are invited to submit comments on or before June 16, 2023.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. [Reginfo.gov](http://Reginfo.gov) provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by

clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

**SUPPLEMENTARY INFORMATION:** The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Prison Education Program Application.

*OMB Control Number:* 1845–NEW.

*Type of Review:* New ICR.

*Respondents/Affected Public:* Private Sector; State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 600.

*Total Estimated Number of Annual Burden Hours:* 6,000.

*Abstract:* The U.S. Department of Education in 2021, proposed rules for the Prison Education Program (PEP) to allow eligible institution to work together with correctional facilities to offer postsecondary educational programs to confined or incarcerated individuals who may be eligible to receive Pell Grant funds. On October 28, 2022, the Final Rule was published including the requirements for PEP. PEP is authorized under section 484(t) of the

Higher Education Act of 1965, as amended (HEA) with the requirements for participation outlined in 34 CFR 668, subpart P, effective July 1, 2023. These are new regulatory requirements that are required for a school to offer a PEP to confined or incarcerated individuals. This is a request for a new information collection to collect on the proposed form the information needed for institutions to apply to participate in PEP.

Dated: May 11, 2023.

**Juliana Pearson,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2023–10463 Filed 5–16–23; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0024]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Borrower Defense to Loan Repayment Universal Forms

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

**DATES:** Interested persons are invited to submit comments on or before June 16, 2023.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

**SUPPLEMENTARY INFORMATION:** The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Borrower Defense to Loan Repayment Universal Forms.

*OMB Control Number:* 1845–0163.

*Type of Review:* Revision of a currently approved ICR.

*Respondents/Affected Public:* Individuals or households; private sector; State, local, and Tribal governments.

*Total Estimated Number of Annual Responses:* 378,230.

*Total Estimated Number of Annual Burden Hours:* 990,034.

*Abstract:* The Department of Education (the Department) amends the William D. Ford Federal Direct Loan (Direct Loan) Program regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement a new regulation in § 685.400 *et seq.*—Borrower Defense to Repayment. These final regulations are a result of negotiated rulemaking and will add new requirements to the current regulations. These final regulations require the collection of this information from borrowers who believe they qualify for a borrower defense to repayment discharge, as permitted under section 455(h) of the HEA. This request is to revise the currently approved information collection 1845–0163 to incorporate the new regulatory requirements and forms. Based on public comment, there have been changes made to the forms and times for completion.

Dated: May 12, 2023.

**Juliana Pearson,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2023–10518 Filed 5–16–23; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP18–116–001]

### Texas Gas Transmission, LLC; Notice of Request for Extension of Time

Take notice that on May 5, 2023, Texas Gas Transmission, LLC (Texas Gas) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until June 26, 2025, to abandon certain pipeline facilities, including all related appurtenant and auxiliary facilities, originally authorized in the June 26, 2018 Order Approving Abandonment under section 7 of the Natural Gas Act and part 157 of the Commission’s regulations (June 26, Order).<sup>1</sup> Ordering Paragraph (B) of the June 26 Order provided a deadline of June 26, 2019, to complete abandonment of the facilities.

In its original application, Texas Gas proposed to abandon in-place approximately 11.0 miles of its 16-inch-diameter North Lake Pagie (NLP) pipeline and approximately 5.7 miles of its 16-inch-diameter Bay Junop-Bay Round (BJB) pipeline. In addition, Texas Gas proposed to abandon by removal two platforms including associated risers, piping, and appurtenances, appurtenant rock and concrete, two meters, and timber bulkheads and bulkhead signs at 33 locations along the pipeline right-of-way. The facilities are located approximately 22.1 miles southwest of Houma, Louisiana, extending offshore in Terrebonne Parish, Louisiana, as part of Texas Gas’ Southeast Supply Lateral.<sup>2</sup>

On June 5, 2019, Texas Gas filed a request for an extension of time, until December 1, 2020, to complete abandonment activities, so as to continue ongoing landowner negotiations and to obtain the necessary environmental permits within the appropriate construction season. On June 10, 2019, the Commission granted an extension of time for one year, until and including June 26, 2020, to complete the abandonment activities.<sup>3</sup>

On May 26, 2020, Texas Gas filed a request for a further one-year extension of time, to June 26, 2021, to complete abandonment activities. Texas Gas stated that this extension of time would allow Texas Gas to complete ongoing

<sup>1</sup> See *Texas Gas Transmission, LLC*, 163 FERC ¶ 62,218 (2018) (June 26 Order).

<sup>2</sup> The Southeast Supply Lateral extends from Eunice, Louisiana eastward to Thibodaux, Louisiana.

<sup>3</sup> *Texas Gas Transmission, LLC*, Docket No. CP18–116–000 (June 10, 2019) (delegated order).

landowner negotiations and to obtain the necessary environmental permits for the project. The Commission granted that extension of time on June 17, 2020.<sup>4</sup>

On April 12, 2021, Texas Gas filed another request for extension of time for an additional two years to complete its project originally authorized in the June 26 Order. Texas Gas requested an additional extension of time, until June 26, 2023, to complete abandonment activities authorized in the above referenced docket. Texas Gas stated that the extension was required to complete abandonment activities, continue ongoing landowner/agency negotiations, and to obtain the outstanding Coastal Use Permit to abandon the NLP/BJB pipeline. The Commission granted that extension of time on May 12, 2021.<sup>5</sup>

In this latest filing, Texas Gas now states that they have faced obstacles in securing agreeable terms with agencies and landowners to secure a Coastal Use Permit. Texas Gas also states that new species have been listed by the U.S. Fish and Wildlife Service (USFWS) that may be affected within the proposed project area and will require re-consultation with USFWS. Therefore, Texas Gas is requesting an additional two-year extension to address these issues.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on the applicant's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).<sup>6</sup>

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,<sup>7</sup> the Commission will aim to issue an order acting on the request

within 45 days.<sup>8</sup> The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.<sup>9</sup> The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.<sup>10</sup> At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.<sup>11</sup> The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

**Comment Date:** 5:00 p.m. Eastern Time on May 26, 2023.

Dated: May 11, 2023.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2023-10515 Filed 5-16-23; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2715-026]

#### Kaukauna Utilities; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P-2715-026.

c. *Date filed:* July 22, 2022.

d. *Applicant:* Kaukauna Utilities.

e. *Name of Project:* Combined Locks Hydroelectric Project.

f. *Location:* The existing project is located on the Lower Fox River in the Village of Combined Locks and the Village of Little Chute, Outagamie County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Zachary Moureau, Environmental & Compliance Manager, Kaukauna Utilities, 777 Island Street, Kaukauna, WI 54130-7077; (920) 462-0238; [zmoureau@ku-wi.org](mailto:zmoureau@ku-wi.org).

i. *FERC Contact:* Kelly Wolcott, (202) 502-6480, or [kelly.wolcott@ferc.gov](mailto:kelly.wolcott@ferc.gov).

j. *Deadline for filing scoping comments:* June 10, 2023.<sup>1</sup>

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-2715-026.

<sup>1</sup> The Commission's Rules of Practice and Procedure provide that if a deadline falls on a Saturday, Sunday, holiday, or other day when the Commission is closed for business, the deadline does not end until the close of business on the next business day.

<sup>4</sup> *Texas Gas Transmission, LLC*, Docket No. CP18-116-000 (June 17, 2020) (delegated order).

<sup>5</sup> *Texas Gas Transmission, LLC*, Docket No. CP18-116-000 (May 12, 2021) (delegated order).

<sup>6</sup> Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 39 (2020).

<sup>7</sup> Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

<sup>8</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

<sup>9</sup> *Id.* at P 40.

<sup>10</sup> Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

<sup>11</sup> *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Project Description:* The Combined Locks Project consists of: (1) a concrete and cyclopean stone dam approximately 654 feet long and 27 feet high with additional 24 inch nominal flashboards mounted upon the spillway crest at elevation 674.6 feet International Great Lakes Datum of 1985 (IGLD85); (2) a 126.9-acre reservoir at normal full pool elevation 676.7 feet IGLD85; (3) a powerhouse approximately 65 feet wide by 130 feet long housing two 3.1-megawatt (MW) generators, for a total authorized capacity of 6.2 MW; (4) a tailrace channel; (5) a 265-foot-long, 4.16-kilovolt (kV) interconnection line from the powerhouse to transformer and 1,442-foot-long, 12.47-kV interconnection line from the transformer to the substation; and (6) appurtenant facilities.

m. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (e.g., scoping document) via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document (P-2715). For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Scoping Process:*

Commission staff will prepare either an environmental assessment (EA) or an environmental impact statement (EIS) that describes and evaluates the probable effects, if any, of the licensee's proposed action and alternatives. The EA or EIS will consider environmental impacts and reasonable alternatives to the proposed action. The Commission's

scoping process will help determine the required level of analysis and satisfy the National Environmental Policy Act (NEPA) scoping requirements, irrespective of whether the Commission prepares an EA or an EIS. At this time, we do not anticipate holding on-site scoping meetings. Instead, we are soliciting written comments and suggestions on the preliminary list of issues and alternatives to be addressed in the NEPA document, as described in scoping document 1 (SD1), issued May 11, 2023.

Copies of the SD1 outlining the subject areas to be addressed in the NEPA document were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of SD1 may be viewed on the web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Dated: May 11, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2023-10514 Filed 5-16-23; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RD23-1-000]

#### Commission Information Collection Activities (FERC-725S); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden of the information collection FERC 725S—*Mandatory Reliability Standards: Emergency Preparedness and Operations (EOP) Reliability Standards*.

**DATES:** Comments on the collection of information are due June 16, 2023.

**ADDRESSES:** Send written comments on FERC-725S (identified by Docket No.

RD23-1-000) to the Office of Management and Budget (OMB) through [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain), Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number 1902-0270 (Mandatory Reliability Standards: Emergency Preparedness and Operations (EOP) Reliability Standards) in the subject line. Your comments should be sent within 30 days of publication of this notice in the **Federal Register**.

Please submit copies of your comments (identified by Docket No. RD23-1-000 and FERC-725S) to the Commission as noted below. Electronic filing through <https://www.ferc.gov> is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service only, addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *Hand (including courier) delivery to:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Please reference the specific collection number(s) (FERC-725S) and/or title(s) (Mandatory Reliability Standards: Emergency Preparedness and Operations (EOP) Reliability Standards) in your comments.

*Instructions:* OMB submissions must be formatted and filed in accordance with submission guidelines at:

[www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Using the search function under the "Currently Under Review field," select "Federal Energy Regulatory Commission," click "submit," and select "comment" to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: <https://www.ferc.gov>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at (866) 208-3676 (toll-free).

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <https://www.ferc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov) and telephone at (202) 502-8663.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC-725S (Mandatory Reliability Standards: Emergency Preparedness and Operations (EOP Reliability Standards).

*OMB Control No.:* 1902-0270.

*Type of Request:* Revision of the FERC-725S information collection requirements with changes to the current reporting and recordkeeping requirements.

*Abstract:* On March 10, 2023 the Commission published an order in Docket No. RD23-1-000 that approved Extreme Cold Weather Reliability Standards EOP-011-3 and EOP-12-1, which were submitted by the North American Electric Corporation (NERC).<sup>1</sup> The order included a 60-day notice in the **Federal Register** and received no comments. The order modifies the FERC-725S Information Collection and directed NERC to modify Reliability Standard EOP-012-1.

The collection is currently approved by OMB and contains Reliability Standards EOP-010-1, EOP-011-1, EOP-004-4, EOP-005-3, EOP-006-3, EOP-008-2 (Table 1). In the order,

Docket No. RD23-1-000, the Commission proposes to replace the current OMB approved Reliability Standard EOP-011-1<sup>2</sup> with Reliability Standard EOP-011-3 (Table 2) and add a new information collection line item for Reliability Standard EOP-012-1 (Table 3).

The Reliability Standard EOP-011-3 modifications transfer Requirements R7 and R8 to Reliability Standard EOP-012-1, as described below. For Reliability Standard EOP-011-3, transmission operators and to a much lesser extent, balancing authorities, still have a one-time cost to modify existing operating plans based on revisions to Reliability Standard EOP-011-3 (Requirements R1 and R2) and to mitigate operating emergencies related to cold weather conditions. Additionally, reliability coordinators will need to review the modified operating plans of the transmission operators. In year three and ongoing, the transmission operator and reliability coordinator estimates are lower to reflect lower paperwork burden for upkeep and review of the operating

plans for emergencies based on the modified Reliability Standard EOP-011-3 to ensure that the new requirements are in place and that applicable entities are following those plans.

The new Reliability Standard EOP-012-1, which is applicable to 1,107 generator owners and 981 generator operators, contains several new requirements and two requirements from Reliability Standard EOP-011-2 that have been moved to Reliability Standard EOP-012-1. In year three and ongoing, the estimates are lower to reflect that the implementation plan(s) to mitigate the reliability effects of extreme cold weather conditions on generating units are in place and that entities are familiar with the EOP-012-1 requirements.

*Type of Respondent:* Balancing Authority (BA), Transmission Operations (TOP) and Reliability Coordinators (RC).

*Estimate of Annual Burden:*<sup>3</sup> The Commission estimates the total annual burden and cost for this information collection in the table below.

TABLE 1—CURRENT COSTS AND BURDEN RELATED TO FERC-725S (1902-0270)

Reliability standard and associated requirement	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response	Total annual burden & total annual cost	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
EOP-010-1 .....	181	1	181	20 hrs; \$1,660 .....	3,620 hrs; \$300,460 .....	1,660
EOP-011-1 .....	12	1	12	1,500 hrs.; \$124,500 .....	18,000 hrs.; \$1,494,000 ..	124,500
EOP-004-4, EOP-005-3, EOP-006-3, EOP-008-2.	280	1	280	250.58 <sup>4</sup> hrs; \$20,798 .....	70,162.4 hrs; \$5,234,440	20,798
Total EOP .....	473				91,782 hrs; \$7,028,900 ...	

TABLE 2—PROPOSED CHANGES DUE TO FINAL RULE IN DOCKET NO. RD23-1-000

Reliability standard & requirement	Type <sup>5</sup> and number of entity	Number of annual responses per entity	Total number of responses	Average number of burden hours per response <sup>6</sup>	Total burden hours
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
<b>FERC-725S—Proposed estimates due to RD23-1 for EOP-011-3</b>					
<b>One Time Estimate—Years 1 and 2 EOP-011-3</b>					
EOP-011-3 .....	168 (TOP) ..	1	168	60 hrs; \$3,893.40 .....	10,080 hrs; \$654,091.2.
EOP-011-3 <sup>7</sup> .....	98 (BA) .....	1	98	6 hrs; \$389.34 .....	588 hrs; \$38,155.32.
EOP-011-3 <sup>8</sup> .....	12 (RC) .....	1	12	28 hrs; \$1,816.92 .....	336 hrs; \$21,803.04.
Sub-total of EOP-011-3 (One time) .....			278		11,004 hrs; \$714,049.56.
<b>Ongoing Estimate—Year 3 ongoing EOP-011-3</b>					
EOP-011-3 <sup>9</sup> .....	168 (TOP) ..	1	168	10 hrs; \$648.90 .....	1,680 hrs; \$109,015.20.
EOP-011-3 <sup>10</sup> .....	98 (BA) .....	1	98	10 hrs; \$648.90 .....	980 hrs; \$63,592.20.

<sup>1</sup> 88 FR 14994.

<sup>2</sup> The currently OMB approved FERC-725S includes the burden related to Reliability Standard EOP-011-1. Reliability Standard EOP-011-1 was superseded by Reliability Standard EOP-011-2, which was approved by the Commission in Docket No. RD21-5-000 (issued August 24, 2021). Reliability Standard EOP-011-3, as noted in Docket No. RD23-1-000, will supersede Reliability

Standard EOP-011-2; thus, the burdens resulting from Reliability Standard EOP-011-3 will be reflected in the FERC-725S information collection.

<sup>3</sup> "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection

burden, refer to title 5 Code of Federal Regulations 1320.3.

<sup>4</sup> Burden hours per response may also include any methods for improvement not limited to trainings, drills, simulations, testing, etc.

<sup>5</sup> TOP=Transmission Operator, BA=Balancing Authority, GO=Generator Owner, GOP=Generator Operator and RC=Reliability Coordinator.

TABLE 2—PROPOSED CHANGES DUE TO FINAL RULE IN DOCKET NO. RD23–1–000—Continued

Reliability standard & requirement	Type <sup>5</sup> and number of entity	Number of annual responses per entity	Total number of responses	Average number of burden hours per response <sup>6</sup>	Total burden hours
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
EOP–011–3 <sup>11</sup> .....	12 (RC) .....	1	12	14 hrs; \$908.46 .....	168 hrs; \$10,901.52.
Sub-Total of EOP–011–3 (ongoing) .....	.....	.....	278	.....	2,828; \$183,508.92.
Sub-Total of ongoing burden averaged over three years.	.....	.....	92.67 (rounded)	.....	942.67 hrs. (rounded); \$61,169.64.
Proposed Total Burden Estimate of EOP–011–3.	.....	.....	370.67	.....	11,946.67 hrs; \$775,219.42 (rounded).

TABLE 3—PROPOSED CHANGES DUE TO FINAL RULE IN DOCKET NO. RD23–1–000 FOR EOP–012–1

Reliability standard & requirement	Type and number of entity	Number of annual responses per entity	Total number of responses	Average number of burden hours per response <sup>12</sup>	Total burden hours
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)
<b>FERC–725S</b>					
<b>One Time Estimate—Years 1 and 2 EOP–012–1</b>					
EOP–012–1 <sup>13</sup> .....	1,107 (GO) .....	1	1,107	150 hrs.; \$9,733.50 .....	166,050 hrs; \$10,774,984.50.
EOP–012–1 .....	981 (GOP) ..	1	981	10 hrs; \$648.90 .....	9,810 hrs; \$636,570.90.
Sub-Total for EOP–012–1 (one-time) .....	.....	.....	2,088	160 hrs; \$10,382.40 .....	175,860 hrs; \$11,411,555.40.
<b>Ongoing Estimate—Year 3 ongoing EOP–012–1</b>					
EOP–012–1 .....	1,107 (GO) .....	1	1,107	40 hrs; \$2,595.60 .....	40,680 hrs; \$2,639,725.20.
EOP–012–1 .....	981 (GOP) ..	1	981	10 hrs; \$648.90 .....	9,810 hrs; \$ 636,570.90.
Sub-Total for EOP–012–1 (ongoing) .....	.....	.....	2,088	50 hrs; \$ 3,244.50 .....	50,490 hrs; \$ 3,276,296.10.
Sub-Total of ongoing burden averaged over three years.	.....	.....	696	.....	16,830 hrs; \$1,092,098.70.
Proposed Total Burden Estimate of EOP–012–1.	.....	.....	2,784	.....	192,690 hrs; \$12,503,654.10.

*Comments:* Comments are invited on: (1) whether the collection of

<sup>6</sup> The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2022, for 75% of the average of an Electrical Engineer (17–2071)—\$77.02, mechanical engineers (17–2141)—\$67.79. \$77.02 + \$67.79/2 = 72.405 × .75 = 54.303 (\$54.30-rounded) (\$54.30/hour) and 25% of an Information and Record Clerk (43–4199) \$42.35 × .25% = 10.5875 (\$10.59 rounded) (\$10.59/hour), for a total (\$54.30 + \$10.59 = \$64.89/hour).

<sup>7</sup> Reduce the estimate for balancing authorities from EOP–011–2 down from previous 60 hours to 6 hours for EOP–011–3.

<sup>8</sup> Reduce the estimate for reliability coordinators from EOP–011–2 down from previous 40 hours to 28 hours for EOP–011–3.

<sup>9</sup> Reduce the estimate for transmission operators from EOP–011–2 down from previous 50 hours to 10 hours for EOP–011–3.

<sup>10</sup> Reduce the estimate for balancing authorities from EOP–011–2 down from previous 50 hours to 10 hours for EOP–011–3.

<sup>11</sup> Reduce the estimate for reliability coordinators from EOP–011–2 down from previous 20 hours to 14 hours for EOP–011–3.

<sup>12</sup> The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2022, for 75% of the average of an Electrical Engineer (17–2071)—\$77.02, mechanical engineers (17–2141)—\$67.79. \$77.02 + \$67.79/2 = 72.405 × .75 = 54.303 (\$54.30-rounded)

information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 11, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2023–10511 Filed 5–16–23; 8:45 am]

**BILLING CODE 6717–01–P**

(\$54.30/hour) and 25% percent of an Information and Record Clerk (43–4199) \$42.35 × .25% = 10.5875 (\$10.59 rounded) (\$10.59/hour), for a total (\$54.30 + \$10.59 = \$64.89/hour).

<sup>13</sup> The estimates for the generator owner and generator operator are being moved from the current EOP–011–2 to the new EOP–012–1.

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2905–000]

#### Village of Enosburg Falls, Vermont; Notice of Authorization for Continued Project Operation

The license for the Enosburg Falls Hydroelectric Project No. 2905 was issued for a period ending April 30, 2023.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the

licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2905 is issued to the Village of Enosburg Falls, Vermont, for a period effective May 1, 2023, through April 30, 2024, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2024, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the Village of Enosburg Falls, Vermont is authorized to continue operation of the Enosburg Falls Hydroelectric Project under the terms and conditions of the prior license until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

Dated: May 11, 2023.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2023-10513 Filed 5-16-23; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG23-152-000.

*Applicants:* Sun Pond, LLC.

*Description:* Sun Pond, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5060.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* EG23-153-000.

*Applicants:* Oak Lessee, LLC.

*Description:* Oak Lessee, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5080.

*Comment Date:* 5 p.m. ET 6/1/23.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

*Docket Numbers:* EL23-66-000.

*Applicants:* Calpine Corporation v. PJM Interconnection, L.L.C.

*Description:* Complaint of Calpine Corporation v. PJM Interconnection, L.L.C.

*Filed Date:* 5/10/23.

*Accession Number:* 20230510-5181.

*Comment Date:* 5 p.m. ET 6/9/23.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER23-762-002.

*Applicants:* The Dayton Power and Light Company, PJM Interconnection, L.L.C.

*Description:* Compliance Filing and Motion to Accept Late Filing of the Dayton Power and Light Company.

*Filed Date:* 5/10/23.

*Accession Number:* 20230510-5178.

*Comment Date:* 5 p.m. ET 5/31/23.

*Docket Numbers:* ER23-1123-001.

*Applicants:* Portland General Electric Company.

*Description:* Tariff Amendment: Response to Deficiency Letter—PGE OATT Attachment P to be effective 4/16/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5108.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1418-001.

*Applicants:* AES WR Limited Partnership.

*Description:* Tariff Amendment: Amendment to Market-Based Rate Application to be effective 6/1/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5123.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1861-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original IISA and ICSA, Service Agreement Nos. 6897 and 6898; Queue No. AF2-120 to be effective 4/11/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5019.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1862-000.

*Applicants:* Roundhouse Renewable Energy II, LLC.

*Description:* Baseline eTariff Filing: Roundhouse Renewable Energy II, LLC Application for MBR Authorization to be effective 7/11/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5043.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1863-000.

*Applicants:* New York Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: NYISO 205: Transmission Constraint Pricing Logic Enhancement to be effective 12/31/9998.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5051.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1864-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original NSA, Service Agreement No. 6883; Queue No. AF1-290 to be effective 7/11/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5052.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1865-000.

*Applicants:* PacifiCorp.

*Description:* Compliance filing: Compliance Filing of PacifiCorp to Docket No. EL22-38 to be effective 4/27/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5068.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1866-000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: UFA, Centennial Flats with Upstream HC-1 LLC (TOT899-Q1529/SA300) to be effective 5/12/2023.

*Filed Date:* 5/11/23.

*Accession Number:* 20230511-5078.

*Comment Date:* 5 p.m. ET 6/1/23.

*Docket Numbers:* ER23-1867-000.

*Applicants:* Southern Company Services, Inc.

*Description:* Southern Companies requests waiver from certain Version 003.3 business practice standards of the North American Energy Standards Board and incorporated by reference into Commission Regulations in Order No. 676-J.

*Filed Date:* 5/1/23.

*Accession Number:* 20230501-5596.

*Comment Date:* 5 p.m. ET 5/22/23.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date.



Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: May 11, 2023.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2023-10516 Filed 5-16-23; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14851-003]

#### White Pine Waterpower, LLC; Notice of Anticipated Schedule for White Pine Pumped Storage Project

On February 27, 2023, White Pine Waterpower, LLC filed an application for authorization to construct and operate the White Pine Pumped Storage Project. The project would be located approximately 8 miles northeast of the City of Ely, in White Pine County, Nevada. The project would occupy 1,095.76 acres of land managed by the US Bureau of Land Management.

The application will be processed according to the following anticipated schedule.

*Notice of Ready for Environmental Analysis:* December 2023.

*Draft National Environmental Policy Act Document:* September 2024.

*Final National Environmental Policy Act Document:* March 20, 2025.

In addition, in accordance with title 41 of the Fixing America's Surface Transportation Act, enacted on December 4, 2015, agencies are to publish completion dates for all Federal environmental reviews and authorizations. This notice identifies the Commission's anticipated schedule for issuance of the final order for the project, which is based on the anticipated date of issuance of the final National Environmental Policy Act document. Accordingly, we currently anticipate issuing a final order for the project no later than:

*Issuance of Final Order:* June 19, 2025.

If a schedule change becomes necessary, an additional notice will be provided so that interested parties and government agencies are kept informed of the project's progress.

Dated: May 11, 2023.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2023-10512 Filed 5-16-23; 8:45 am]

**BILLING CODE 6717-01-P**

## FEDERAL MARITIME COMMISSION

[Docket No. 22-35]

#### M.E. Dey & Co., Inc. Complainant v. Hapag-Lloyd AG, and Hapag-Lloyd (America) LLC, Respondents and Third-Party Complaints v. CSX Transportation, Inc. Third-Party Respondent; Notice of Filing of Third-Party Complaint

Notice is given that a Third-Party Complaint has been filed with the Federal Maritime Commission ("Commission") by Hapag-Lloyd AG and Hapag-Lloyd (America) LLC ("Respondents and "Third-Party Complainants") against CSX Transportation, Inc. ("CSX Transportation" or "Third-Party Respondent") in Docket 22-35. The Third-Party Complaint identifies Complainant M.E. Dey & Co. as a non-vessel-operating common carrier organized and existing under the laws of Wisconsin with a principal place of business in Milwaukee, Wisconsin, and Third-Party Complainants Hapag-Lloyd AG as a global ocean carrier with headquarters in Hamburg, Germany, and Hapag-Lloyd (America) LLC as a United States subsidiary and agent of Hapag AG located in Atlanta, Georgia. In addition, the Third-Party Complaint identifies CSX Transportation as a rail and intermodal transportation carrier with a headquarters in Jacksonville, Florida.

Third-Party Complainants allege that, as a result of Third-Party Respondent's assessment, billing, and collection of the storage charges at issue in the Initial Complaint, Third-Party Complainants have been sued by Complainant for violations of the Shipping Act and the Ocean Shipping Reform Act of 2022. In addition, Third-Party Complainants allege that, because the charges in question were assessed, billed, and collected solely by CSX Transportation without prior notice to or approval of Third-Party Complainants, in the event that Third-Party Complainants are found to be in violation of 46 U.S.C. 41102(c) and/or 46 U.S.C. 41104(a)(14), CSX Transportation is likewise in violation of 46 U.S.C. 41102(c) and/or or 46 U.S.C. 41104(a)(14) and is liable to Third-Party Complainants for whatever reparations and other relief Third-Party Complainants may be ordered to pay to Complainant. An answer to the Third-

Party Complaint is due to be filed with the Commission within twenty-five (25) days after the date of service. The full text of the Third-Party Complaint can be found in the Commission's Electronic Reading Room at <https://www2.fmc.gov/readingroom/proceeding/22-35/>.

This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by December 26, 2023, and the final decision of the Commission shall be issued by July 10, 2024.

Served: May 11, 2023.

**William Cody,**  
*Secretary.*

[FR Doc. 2023-10454 Filed 5-16-23; 8:45 am]

**BILLING CODE 6730-02-P**

## GENERAL SERVICES ADMINISTRATION

[Notice-ID-2023-10; Docket No. 2023-0002; Sequence No. 17]

### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Chief Privacy Officer, General Services Administration, (GSA).

**ACTION:** Rescindment of a system of records notice.

**SUMMARY:** Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that GSA is rescinding the system of records notice, GSA/PBS-5 eLease SORN. The rescinded system of records described in this notice no longer maintains any Personally Identifiable Information (PII). GSA's eLease system is now obsolete and was decommissioned.

**DATES:** Submit comments on or before June 16, 2023.

**ADDRESSES:** Submit comments identified by "Notice-ID-2023-10, Rescindment of a System of Records" via <http://www.regulations.gov>. Search for "Notice-ID-2023-10, Rescindment of a System of Records." Select the link "Comment Now" that corresponds with "Notice-ID-2023-10, Rescindment of a System of Records." Follow the instructions provided on the screen. Please include your name, company name (if any), and "Notice-ID-2023-10, Rescindment of a System of Records" on your attached document.

**FOR FURTHER INFORMATION CONTACT:** Call or email the GSA Chief Privacy Officer, Richard Speidel via telephone at 202-969-5830; email [gsa.privacyact@gsa.gov](mailto:gsa.privacyact@gsa.gov).

**SUPPLEMENTARY INFORMATION:** The SORN is now obsolete and is being rescinded.

**SYSTEM NAME AND NUMBER:**

eLease. GSA/PBS-5.

**HISTORY:**

73 FR 22414, April 25, 2008.

**Richard Speidel,**

*Chief Privacy Officer, Office of the Deputy Chief Information Officer, General Services Administration.*

[FR Doc. 2023-10500 Filed 5-16-23; 8:45 am]

**BILLING CODE 6820-34-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Office of Refugee Resettlement Unaccompanied Refugee Minors Program Application and Withdrawal of Application or Declination of Placement Form (OMB #0970-0550)**

**AGENCY:** Office of Refugee Resettlement, Administration for Children and

Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Request for public comments.

**SUMMARY:** The Office of Refugee Resettlement (ORR) is requesting a 3-year extension with revisions of the Unaccompanied Refugee Minors (URM) Program Application and Withdrawal of Application or Declination of Placement Form (OMB #0970-0550, expiration 08/31/2023). Proposed revisions include additional instructions, a small number of new questions, dropping a few questions, and rephrasing existing questions.

**DATES:** *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/](http://www.reginfo.gov/public/do/)

**PRAMain.** Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. You can also obtain copies of the proposed collection of information by emailing [infocollection@acf.hhs.gov](mailto:infocollection@acf.hhs.gov). Identify all emailed requests by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

**Description:** The URM Program Application is completed on behalf of unaccompanied children in the United States who are applying for entry into the URM Program. The application includes biographical data and information on the child’s needs to support placement efforts. The Withdrawal of Application or Declination of Placement Form is completed when a child is no longer interested in entering the URM Program or is not interested in entering the placement they were offered.

**Respondents:** Case managers, attorneys, or other representatives working with unaccompanied children who are eligible for the URM Program.

**ANNUAL BURDEN ESTIMATES**

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Unaccompanied Refugee Minors Program Application .....	450	3	1.5	2,025	675
Withdrawal of Application or Declination of Placement Form .....	50	3	0.2	30	10

*Estimated Total Annual Burden Hours: 685.*

*Authority: 8 U.S.C. 1522(d).*

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2023-10539 Filed 5-16-23; 8:45 am]

**BILLING CODE 4184-89-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2023-D-1103]

**Compliance Policy Guide Sec. 555.250 Major Food Allergen Labeling and Cross-Contact; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the availability of a draft Compliance Policy Guide entitled “Sec.

555.250 Major Food Allergen Labeling and Cross-contact.” The draft guidance, when finalized, will replace existing guidance for FDA staff on FDA’s enforcement policy regarding major food allergen labeling and cross-contact.

**DATES:** Submit either electronic or written comments on the draft guidance by July 17, 2023 to ensure that we consider your comment on the draft guidance before we begin work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and

Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA–2023–D–1103 for “Sec. 555.250 Major Food Allergen Labeling and Cross-contact.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to Office of Compliance (HFS–605), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

#### FOR FURTHER INFORMATION CONTACT:

Yinqing Ma, Office of Compliance (HFS–605), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2479, email: [Yinqing.ma@fda.hhs.gov](mailto:Yinqing.ma@fda.hhs.gov); or Denise See, Center for Food Safety and Applied Nutrition, Office of Regulations and Policy (HFS–024), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

We are announcing the availability of a draft Compliance Policy Guide (CPG) entitled “Sec. 555.250 Major Food Allergen Labeling and Cross-contact.” This draft CPG would update and replace existing guidance for FDA staff on FDA’s enforcement policy regarding major food allergen labeling and cross-contact. The content of current CPG Sec. 555.250 was written before the enactment of three major laws that are the foundation of FDA’s regulatory framework for major food allergens: Food Allergen Labeling and Consumer Protection Act (2004), FDA Food Safety Modernization Act (2011), and the Food Allergy Safety, Treatment, Education and Research Act (2021). The current CPG Sec. 555.250 also does not reflect requirements in our regulation entitled “Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food” (now codified at 21 CFR part 117).

We are issuing the draft guidance consistent with our good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent our current thinking on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations.

##### II. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of

information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

#### III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/FoodGuidances>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>. Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: May 12, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–10523 Filed 5–16–23; 8:45 am]

**BILLING CODE 4164–01–P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

[Docket No. FDA–2020–N–2226]

##### Cheese Products Deviating From Identity Standard; Temporary Permit for Market Testing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing the extension of a temporary permit issued to Bongards Creameries (the applicant) to market test several pasteurized standardized cheeses that deviate from the U.S. standards of identity for cheese products. The extension allows the applicant to continue to evaluate commercial viability of the products and to collect data on consumer acceptance of the products, in support of a petition to amend the standard of identity for cheese products. We also invite other interested parties to participate in the market test.

**DATES:** The new expiration date of the permit will be either the effective date of a final rule amending the standard of identity of cheese products that may result from the petition or 30 days after denial of the petition.

#### FOR FURTHER INFORMATION CONTACT:

Marjan Morravej, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2371.

**SUPPLEMENTARY INFORMATION:** In accordance with § 130.17 (21 CFR

130.17), we issued a temporary permit to Bongards Creameries, 250 Lake Drive East, Chanhassen, MN 55317, to market test products that deviate from the standards of identity for cheese products under §§ 133.167, 133.169, 133.170, and 133.173 (21 CFR 133.167, 133.169, 133.170, and 133.173) (85 FR 80118, December 11, 2020). We issued the permit to facilitate market testing of products that deviate from the requirements of the standard of identity for cheese products issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). The permit covers limited interstate marketing tests of cheese products.

The test products deviate from the standards of identity for cheese products under §§ 133.167, 133.169, 133.170, and 133.173. For the purpose of this permit, natamycin, which is not permitted under the standards of identity for these cheese products, would be added as a mold inhibitor in the standardized cheeses. The inhibitor would be incorporated into blended and processed cheese just prior to pasteurization and further cast into slices (or packaging into loaves or other final forms as in the case of pasteurized process cheese spread). Natamycin, which is stable under typical thermal processing conditions for pasteurized cheeses, would be added directly to cheese blends just prior to pasteurization, as is done with other mold inhibitors such as sorbic acid, sodium propionate, and their approved variants. The final concentration of natamycin would not exceed 20 parts per million and would be effective at producing process and blended slices with a shelf life of up to 150 days before seeing mold growth.

The test products meet all the requirements of the standard with the exception of this deviation.

On December 22, 2022, the applicant asked us to extend the temporary permit so the applicant could have more time to market test the cheese products and gain additional consumer acceptance in support of the petition to amend the standard for cheese products. We find that it is in the interest of consumers to extend the permit for continued market testing of the cheese products to gain additional information on consumer expectations and acceptance. Therefore, under § 130.17(i), we are extending the temporary permit granted to Bongards Creameries for temporary marketing of a maximum of 100 million pounds (45,359,237 kilograms) of cheese products to provide continued market testing of the specified amount of product for the applicant on an annual basis. The new expiration date of the

permit will be either the effective date of a final rule amending the standard of identity for cheese products that may result from the petition or 30 days after denial of the petition. All other conditions and terms of this permit remain the same.

In addition, we invite interested persons to participate in the market test under the conditions of the permit, except for the designated area of distribution. Any person who wishes to participate in the extended market test must notify, in writing, the Branch Chief, Product Evaluation Labeling Branch, Division of Food Labeling and Standards, Office of Nutrition and Food Labeling, Center for Food Safety and Applied Nutrition, via [FDAAfoodsProgramTMP@fda.hhs.gov](mailto:FDAAfoodsProgramTMP@fda.hhs.gov). The notification must describe the test products and the area of distribution, specify and justify the amount requested, and include the labeling that will be used for the test product (*i.e.*, a draft label for each size of container and each brand of product to be market tested) (see § 130.17(c)). The information panels on the labels of the test products must bear nutrition labeling in accordance with 21 CFR 101.9. Each of the ingredients used in the food must be declared on the label as required by 21 CFR part 101.

Dated: May 10, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2023–10438 Filed 5–16–23; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–new]

### Agency Information Collection Request; 60-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Comments on the ICR must be received on or before July 17, 2023.

**ADDRESSES:** Submit your comments to [Sherrette.Funn@hhs.gov](mailto:Sherrette.Funn@hhs.gov) or by calling (202) 264–0041 and [PRA@HHS.GOV](mailto:PRA@HHS.GOV).

**FOR FURTHER INFORMATION CONTACT:** When submitting comments or requesting information, please include the document identifier 0990–New–60D

and project title for reference, to Sherrette A. Funn, email: [Sherrette.Funn@hhs.gov](mailto:Sherrette.Funn@hhs.gov), [PRA@HHS.GOV](mailto:PRA@HHS.GOV) or call (202) 264–0041 the Reports Clearance Officer.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Title of the Collection:* Critical Infrastructure Protection Healthcare and Public Health (HPH) Partnership Data Collection.

*Type of Collection:* NEW.

OMB No.: 0990–new.

**Abstract:** The Administration for Strategic Preparedness and Response's (ASPR) Office of Critical Infrastructure Protection (CIP) serves as the (HPH) Sector Risk Management Agency (SRMA) designee on behalf of the Department of Health and Human Services (HHS) as codified by the 2021 National Defense Authorization Act (NDAA), supporting the HPH Sector to prepare for future threats, manage risks, coordinate effective response, and recover from human-caused and naturally occurring threats and hazards.

CIP promotes resilience of the nation's health critical infrastructure by working directly with public and private sector partners to establish risk assessment tools, foster information sharing, provide technical resources and assistance, and lead programs to prepare for, respond to, and recover from human-caused and naturally occurring threats and hazards. CIP specifically manages the (HPH) Sector Critical Infrastructure Protection Partnership (HPH Partnership), a coordinating body of more than 300 private sector organizations and federal and state, tribal, local, and territorial (STLT) government entities. CIP relies on a strong partnership federal and STLT government entities through the Government Coordinating Council (GCC) and with critical infrastructure owners and operators through the private Sector Coordinating Council (SCC). Together, the councils of the HPH Partnership form a private-public network that promotes situational awareness, coordination, capacity-

building, and preparedness and response capabilities by fostering a shared understanding of Sector risks, needs, and opportunities.

SRMAs are expected to determine the extent to which their respective sectors are implementing infrastructure protection frameworks and guidance (e.g., cybersecurity). Per the 2013 National Infrastructure Protection Plan (NIPP), they “serve as a day-to-day Federal interface for the dynamic prioritization and coordination of

sector-specific activities and carry out incident management responsibilities”. CIP’s success as the SRMA depends heavily on routine and ad hoc data to inform its programs and activities in the HPH Sector.

CIP plans to collect data bi-annually to understand the impact of the HPH Partnership’s work on HPH Sector resilience. Using survey-based data collection tools, CIP will measure the performance of the HPH Partnership as a program and use the resulting

information to assess the Office’s responsiveness to its statutory responsibilities, including those articulated in Section 2009(b) in the 2021 NDAA. The data will additionally support CIP’s ability to improve programmatic operations and inform decision-making. CIP will also collect data under urgent circumstances to guide emergency response activities and after-action reporting for the HPH Sector.

#### ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
HPH Partnership Bi-Annual Survey Collection (Fall).	HPH Partnership Members .....	308	1	15/60	77
HPH Partnership Bi-Annual Survey Collection (Spring).	HPH Partnership Members .....	308	1	15/60	77
Ad hoc Information Collections .....	HPH Partnership Members .....	308	1	1	308
Total .....	.....	.....	3	.....	462

**Sherrette A. Funn,**

*Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.*

[FR Doc. 2023–10490 Filed 5–16–23; 8:45 am]

**BILLING CODE 4150–37–P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Meeting of the Advisory Committee on Blood and Tissue Safety and Availability

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Health and Human Services is hereby giving notice that the Advisory Committee on Blood and Tissue Safety and Availability (ACBTSA) will hold a meeting. The meeting will be open to the public via webcast. The committee will discuss and vote on a recommendation related to surge capacity for blood and blood products.

**DATES:** The meeting will take place on July 6–7, 2023 from approximately 10 a.m.–3 p.m. Eastern Time (ET) each day. Meeting times are tentative and subject to change. The confirmed times and agenda items for the meeting will be posted on the ACBTSA web page at <https://www.hhs.gov/oidp/advisory-committee/blood-tissue-safety-availability/meetings/2023-07-06/>

[index.html](#) when this information becomes available.

#### FOR FURTHER INFORMATION CONTACT:

James Berger, Designated Federal Officer for the ACBTSA; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Rockville, MD 20852. Email: [ACBTSA@hhs.gov](mailto:ACBTSA@hhs.gov). Phone: 202–795–7608.

**SUPPLEMENTARY INFORMATION:** On the day of the meeting, please go to <https://www.hhs.gov/live/index.html> to view the meeting. The public will have an opportunity to present their views to the ACBTSA by submitting a written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide written public comment should review instructions at <https://www.hhs.gov/oidp/advisory-committee/blood-tissue-safety-availability/meetings/2023-07-06/index.html> and respond by midnight June 28, 2023, ET. Written public comments will be accessible to the public on the ACBTSA web page prior to the meeting.

**Background and Authority:** The ACBTSA is a discretionary Federal advisory committee and is governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. app), which sets forth standards for the formation and use of advisory committees. The ACBTSA functions to provide advice to the Secretary through the Assistant

Secretary for Health on a range of policy issues to include: (1) Identification of public health issues through surveillance of blood and tissue safety issues with national survey and data tools; (2) identification of public health issues that affect availability of blood, blood products, and tissues; (3) broad public health, ethical, and legal issues related to the safety of blood, blood products, and tissues; (4) the impact of various economic factors (e.g., product cost and supply) on safety and availability of blood, blood products, and tissues; (5) risk communications related to blood transfusion and tissue transplantation; and (6) identification of infectious disease transmission issues for blood, organs, blood stem cells and tissues. The Committee has met regularly since its establishment in 1997.

Dated: May 2, 2023.

**James J. Berger,**

*Designated Federal Officer, Advisory Committee on Blood and Tissue Safety and Availability, Office of Infectious Disease and HIV/AIDS Policy.*

[FR Doc. 2023–10499 Filed 5–16–23; 8:45 am]

**BILLING CODE 4150–28–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; Review of K99 MOSAIC Applications.

*Date:* June 13, 2023.

*Time:* 10:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

*Contact Person:* Tracy Koretsky, Ph.D. Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3AN12F, Bethesda, Maryland 20892, 301-594-2886, [tracy.koretsky@nih.gov](mailto:tracy.koretsky@nih.gov).

*Name of Committee:* National Institute of General Medical Sciences, Special Emphasis Panel; Review of Applications of NRSA Institutional Postdoctoral Training Grant (T32).

*Date:* July 6, 2023.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

*Contact Person:* Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, Maryland 20892, 301-435-0807, [slicelw@mail.nih.gov](mailto:slicelw@mail.nih.gov).

Information is also available on the Institute's/Center's home page: [www.nigms.nih.gov/](http://www.nigms.nih.gov/), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 11, 2023.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2023-10453 Filed 5-16-23; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

#### FOR FURTHER INFORMATION CONTACT:

Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852 by contacting Dr. Benjamin Hurley at 240-669-5092 or [benjamin.hurley@nih.gov](mailto:benjamin.hurley@nih.gov). A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

#### SUPPLEMENTARY INFORMATION:

Technology description follows:

#### Nanoparticle Vaccine Against Mpox

##### *Description of Technology:*

In 2022, the World Health Organization declared an atypical outbreak of monkeypox (Mpox), which has caused approximately 30,000 cases of Mpox infection within the United States as of April 2023. Mpox represents a current threat to public health, and there is an immediate need for an effective vaccine. To address this, NIAID has developed a vaccine approach comprising virus-like nanoparticles coated with modified Mpox proteins. NIAID investigations have demonstrated that immunization has elicited a robust immune response in mice and provided protection against a lethal infection of Vaccinia virus.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37

CFR part 404, as well as for further development and evaluation under a research collaboration.

#### *Potential Commercial Applications:*

- **Immunization:** Mpox nanoparticle vaccines may be more effective than current MVA vaccination approaches in providing protection against Mpox infection.

- The methodology for manufacturing the Mpox nanoparticle vaccine could be readily adapted to generate vaccines for other poxviruses.

#### *Competitive Advantages:*

- A Mpox nanoparticle vaccine may have fewer side effects than available MVA based vaccines.

- The storage and transport requirements of a Mpox nanoparticle vaccine are better suited to low resource settings than MVA vaccines.

*Inventors:* Bernard Moss, MD, Ph.D.

*Publications:* Publication pending.

*Intellectual Property:* HHS Reference No. E-183-2022; U.S. Provisional Application No. 63/402,702.

*Licensing Contact:* To license this technology, please contact Benjamin Hurley at 240-669-5092 or [benjamin.hurley@nih.gov](mailto:benjamin.hurley@nih.gov), and reference E-183-2022.

#### *Collaborative Research Opportunity:*

The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this invention. For collaboration opportunities, please contact Benjamin Hurley; 240-669-5092, [benjamin.hurley@nih.gov](mailto:benjamin.hurley@nih.gov).

Dated: May 9, 2023.

**Surekha Vathyam,**

*Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.*

[FR Doc. 2023-10485 Filed 5-16-23; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

*Date:* June 1–2, 2023.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1781, [liuyh@csr.nih.gov](mailto:liuyh@csr.nih.gov).

*Name of Committee:* Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.

*Date:* June 5–6, 2023.

*Time:* 10:00 a.m. to 9:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Rebecca C. Burgess, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–8034, [rebecca.burgess@nih.gov](mailto:rebecca.burgess@nih.gov).

*Name of Committee:* Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Biochemistry and Biophysics of Membranes Study Section.

*Date:* June 6–7, 2023.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, [assamunu@csr.nih.gov](mailto:assamunu@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Tobacco Regulatory Science.

*Date:* June 6, 2023.

*Time:* 9:30 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Izabella Zandberg, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–0359, [izabella.zandberg@nih.gov](mailto:izabella.zandberg@nih.gov).

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group;

Clinical Informatics and Digital Health Study Section.

*Date:* June 8–9, 2023.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Paul Hewett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room Bethesda, MD 20892, (240) 672–8946, [hewettmarxpn@csr.nih.gov](mailto:hewettmarxpn@csr.nih.gov).

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group; Clinical Management in General Care Settings Study Section.

*Date:* June 12–13, 2023.

*Time:* 10:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Lauren Fordyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, Bethesda, MD 20892, (301) 435–6998, [fordycelm@mail.nih.gov](mailto:fordycelm@mail.nih.gov).

*Name of Committee:* Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

*Date:* June 15–16, 2023.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Tami Jo Kingsbury, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710Q, Bethesda, MD 20892, (410) 274–1352, [tami.kingsbury@nih.gov](mailto:tami.kingsbury@nih.gov).

*Name of Committee:* Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

*Date:* June 15–16, 2023.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sung-Wook Jang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812P, Bethesda, MD 20892, (301) 435–1042, [jangs2@csr.nih.gov](mailto:jangs2@csr.nih.gov).

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.

*Date:* June 15–16, 2023.

*Time:* 9:00 a.m. to 7:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Shivani Sharma, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 507–7661, [shivani.sharma@nih.gov](mailto:shivani.sharma@nih.gov).

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group; Kidney and Urological Systems Function and Dysfunction Study Section.

*Date:* June 15–16, 2023.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Santanu Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2106, Bethesda, MD 20892, (301) 435–5947, [banerjees5@mail.nih.gov](mailto:banerjees5@mail.nih.gov).

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group; Digestive and Nutrient Physiology and Diseases Study Section.

*Date:* June 15–16, 2023.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Aster Juan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301–435–5000, [juana2@mail.nih.gov](mailto:juana2@mail.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR20–104: Biomedical Technology Development and Dissemination (BTDD) Center RM1.

*Date:* June 15, 2023.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, [lijames@csr.nih.gov](mailto:lijames@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 11, 2023.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2023–10452 Filed 5–16–23; 8:45 am]

**BILLING CODE 4140–01–P**



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****[Docket No. FR-7070-N-27]****30-Day Notice of Proposed Information Collection: Section 8 Renewal Policy Guidebook; OMB Control No.: 2502-0587**

**AGENCY:** Office of Policy Development and Research, Chief Data Officer, HUD.  
**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* June 16, 2023.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000; email [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street SW, Room 8210, Washington, DC 20410; email Colette Pollard at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is

seeking approval from OMB for the information collection described in section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 6, 2022 at 87 FR 74651.

**A. Overview of Information Collection**

*Title of information collection:* Section 8 Renewal Policy Guidebook.  
*OMB approval number:* 2502-0587.  
*OMB expiration date:* November 30, 2020.

*Type of request:* Reinstatement, with change, of previously approved collection for which approval has expired.

*Form numbers:*

1. Housing Assistance Payments Contract: HUD-52522a; HUD-52522b
2. Assignment, Assumption, and Amendment of Section 8 Housing Assistance Payments (HAP) Contract: HUD-5988 (*new*)
3. Use Agreement: HUD-90055
4. Rent Comparability Grid: HUD-92273-S8
5. Project-Based Section 8 Housing Assistance Payments: Addendum to Renewal Contract Under Option One or Option Two for Capital Repairs and/or Acquisition Costs: HUD-93181
6. Project-Based Section 8 Housing Assistance Payments: Addendum to Renewal Contract Under Option One or Option Two for Capital Repairs and/or Acquisition—Post-Rehabilitation Rents at Closing: HUD-93182
7. Rider to Original Section 8 Housing Assistance Payments Contract: HUD-93184
8. Amendment to Project-Based Section 8 Housing Assistance Payments Contract Pursuant to Section 8(bb)(1) of the United States Housing Act of 1937: HUD-93185a; HUD-93185b
9. Contract Renewal Request Form: HUD-9624
10. OCAF Rent Adjustment Worksheet: HUD-9625
11. Letters to Owners/Agents: HUD-9626
12. Letters to Owners/Agents: HUD-9627
13. Request to Renew Using Non-Section 8 Units in the Section 8 Project as a Market Rent Ceiling: HUD-9629
14. Request to Renew Using Fair Market Rents (FMRs) as Market Ceiling: HUD-9630
15. Sample Use Agreement: HUD-9634
16. Projects Preparing a Budget-Based Rent Increase: HUD-9635
17. Project-Based Section 8 Housing Assistance Payments Basic Renew Contract—One-Year Term: HUD-9636
18. Project-Based Section 8 Housing Assistance Payments Basic Renew Contract—Multi-Year Term: HUD-9637
19. Project-Based Section 8 Housing Assistance Payments Renewal Contract for Mark-Up-To-Market Project: HUD-9638
20. Project-Based Section 8 Housing Assistance Payments Preservation Renewal Contract: HUD-9639
21. Project-Based Section 8 Housing Assistance Payments Interim (Full) Mark-To-Market Renewal Contract: HUD-9640
22. Project-Based Section 8 Housing Assistance Payments Interim (Lite) Mark-To-Market Renewal Contract: HUD-9641
23. Project-Based Section 8 Housing Assistance Payments Full Mark-To-Market Renewal Contract: HUD-9642
24. Project-Based Section 8 Housing Assistance Payments Watch List Renewal Contract: HUD-9643
25. Project-Based Assistance Housing Assistance Payments Contract For Previous Mod Rehab Projects: HUD-9644
26. Housing Assistance Payments Program Housing Finance & Development Agencies Extension Amendment to Old Regulation State Agency Housing Assistance Payments Contract: HUD-9647
27. Project-Based Section 8 Contract Administration Consent to Assignment of HAP Contract as Security for Freddie Mac Financing: HUD-9648a
28. Project-Based Section 8 Contract Administration Consent to Assignment of HAP Contract to FNMA as Security for FNMA Credit Enhancement: HUD-9648d
29. Project-Based Section 8 Contract Administration Consent to Assignment of HAP Contract as Security for Financing: HUD-9649
30. Consent to Assignment of Senior Preservation Rental Assistance Contracts (SPRAC) as Security for Financing: HUD-9649a
31. Project-Based Section 8 Contract Administration Consent to Assignment of HAP Contract as Security for FNMA Financing: HUD-9651



Information collection	Number of respondents	Total annual responses	Burden hours per response	Total annual burden hrs.	Hourly cost to public	Total annual cost to public	Hourly cost to government	Total annual cost to government
Housing Assistance Payments Contract (HUD-52522a and b) .....	20	20	0.50	10	\$39.72	\$397.20	\$51.18	\$511.80
Assignment, Assumption, and Amendment of Section 8 Housing Assistance Payments (HAP) Contract (HUD-5988) .....	3,555	3,555	0.50	1,778	39.72	70,602.30	51.18	90,972.45
Section 8 Use Agreement (HUD-90055) .....	75	75	0.50	38	39.72	1,489.50	51.18	1,919.25
Rent Comparability Grid (HUD-92273-S8) .....	950	950	1.00	950	39.72	37,734.00	51.18	48,621.00
Project-Based Section 8 Housing Assistance Payments: Addendum to Renewal Contract Under Option One or Option Two for Capital Repairs and/or Acquisition Costs (HUD-93181) .....	50	50	0.50	25	39.72	993.00	51.18	1,279.50
Project-Based Section 8 Housing Assistance Payments: Addendum to Renewal Contract Under Option One or Option Two for Capital Repairs and/or Acquisition—Post-Rehabilitation Rents at Closing (HUD-93182) .....	150	150	0.50	75	39.72	2,979.00	51.18	3,838.50
Rider to Original Section 8 Housing Assistance Payments Contract (HUD-93184) .....	20	20	0.50	10	39.72	397.20	51.18	511.80
Amendment to Project-Based Section 8 Housing Assistance Payments Contract [Contract A1] Pursuant to Section 8(bb)(1) of the United States Housing Act of 1937 (HUD-93185a) .....	25	25	0.50	13	39.72	496.50	51.18	639.75
Amendment to Project-Based Section 8 Housing Assistance Payments Contract [Contract B] Pursuant to Section 8(bb)(1) of the United States Housing Act of 1937 (HUD-93185b) .....	25	25	0.50	13	39.72	496.50	51.18	639.75
Contract Renewal Request Form (HUD-9624) .....	2,000	2,000	1.00	2,000	39.72	79,440.00	51.18	102,360.00
OCAF Rent Adjustment Worksheet (HUD-9625) .....	7,957	7,957	1.00	7,957	39.72	316,052.04	51.18	407,239.26
Letters to Owners/Agents: Option 1 and 3 (HUD-9626) .....	419	419	0.25	105	39.72	4,160.67	51.18	5,361.11
Letters to Owners/Agents: Option 2 and 4 (HUD-9627) .....	1,801	1,801	0.25	450	39.72	17,883.93	51.18	23,043.80
Request to Renew Using Non-Section 8 Units in the Section 8 Project as a Market Rent Ceiling (HUD-9629) .....	10	10	0.50	5	39.72	198.60	51.18	255.90
Request to Renew Using FMRs as Market Ceiling (HUD-9630) .....	88	88	0.50	44	39.72	1,747.68	51.18	2,251.92
Sample Use Agreement (HUD-9634) .....	55	55	0.50	28	39.72	1,092.30	51.18	1,407.45
Projects Preparing a Budget-Based Rent Increase (HUD-9635) .....	1,697	1,697	1.00	1,697	39.72	67,404.84	51.18	86,852.46
Housing Assistance Payments Basic Renewal Contract—One-Year Term (HUD-9636) .....	500	500	0.50	250	39.72	9,930.00	51.18	12,795.00
Housing Assistance Payments Basic Renewal Contract—Multi-Year Term (HUD-9637) .....	800	800	0.50	400	39.72	15,888.00	51.18	20,472.00
Housing Assistance Payments Renewal Contract for Mark-Up-To-Market Project (HUD-9638) .....	169	169	0.50	85	39.72	3,356.34	51.18	4,324.71
Housing Assistance Payments Preservation Renewal Contract (HUD-9639) .....	213	213	0.50	107	39.72	4,230.18	51.18	5,450.67
Housing Assistance Payments Interim (Full) Mark-To-Market Renewal Contract (HUD-9640) .....	53	53	0.50	27	39.72	1,052.58	51.18	1,356.27
Housing Assistance Payments Interim (Lite) Mark-To-Market Renewal Contract (HUD-9641) .....	68	68	0.50	34	39.72	1,350.48	51.18	1,740.12
Housing Assistance Payments Full Mark-To-Market Renewal Contract (HUD-9642) .....	63	63	0.50	32	39.72	1,251.18	51.18	1,612.17
Housing Assistance Payments Watch List Renewal Contract (HUD-9643) .....	117	117	0.50	59	39.72	2,323.62	51.18	2,994.03
Project-Based Assistance Housing Assistance Payments Contract For Previous Mod Rehab Projects (HUD-9644) .....	25	25	0.50	13	39.72	496.50	51.18	639.75
Housing Assistance Payments Program Housing Finance & Development Agencies Extension Amendment to Old Regulation State Agency Housing Assistance Payments Contract (HUD-9647) .....	10	10	0.50	5	39.72	198.60	51.18	255.90
Consent to Assignment of HAP Contract as Security for Freddie Mac Financing (HUD-9648a) .....	50	50	0.50	25	39.72	993.00	51.18	1,279.50
Consent to Assignment of HAP Contract to FNMA as Security for FNMA Credit Enhancement (HUD-9648d) .....	50	50	0.50	25	39.72	993.00	51.18	1,279.50
Consent to Assignment of HAP Contract as Security for Financing (HUD-9649) .....	600	600	0.50	300	39.72	11,916.00	51.18	15,354.00
Consent to Assignment of Senior Preservation Rental Assistance Contract (SPRAC) as Security for Financing (HUD-9649a) .....	50	50	1.00	50	39.72	1,986.00	51.18	2,559.00
Consent to Assignment of HAP Contract as Security for FNMA Financing (HUD-9651) .....	100	100	0.50	50	39.72	1,986.00	51.18	2,559.00
<b>Total .....</b>	<b>21,765</b>	<b>21,765</b>	<b>.....</b>	<b>16,655</b>	<b>.....</b>	<b>661,516.74</b>	<b>.....</b>	<b>852,377.31</b>

*Description of the need for the information and proposed use:* The *Section 8 Renewal Policy Guidebook* explains the various options available under the Multifamily Housing Reform and Affordability Act of 1997 (MAHRA) for the renewal of expiring project-based section 8 contracts and the adjustment of contract rents and establishes related administrative policies. Forms included in the information collection are used in the renewal and contract rent adjustment processes. For example, listed forms are used to establish market rents; amend rents; request renewal of a Section 8 contract under the Multifamily Housing Reform and Affordability Act of 1997; and ensure the acceptable operation of properties assisted under a Section 8 HAP contract.

*Respondents:* Businesses or other for-profit and not-for-profit entities.

*Estimated number of respondents:* 21,765.

*Estimated number of responses:* 21,765.

*Frequency of response:* Various.

*Average hours per response:* 0.56 hours.

*Total estimated burden hours:* 16,655 hours.

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

## C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

**Colette Pollard,**

*Department Reports Management Officer,  
Office of Policy Development and Research,  
Chief Data Officer.*

[FR Doc. 2023-10509 Filed 5-16-23; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR-7075-N-06]**

### 60-Day Notice of Proposed Information Collection: Survey of Market Absorption of New Multifamily Units; OMB Control No.: 2528-0013

**AGENCY:** Office of Policy Development and Research, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* July 17, 2023.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be submitted within 60 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting, "Currently under 60-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Anna Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000 or email at [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

#### FOR FURTHER INFORMATION CONTACT:

Anna Guido, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna Guido at [Anna.P.Guido@hud.gov](mailto:Anna.P.Guido@hud.gov), telephone 202-402-5535 (this is not a toll-free number). HUD welcomes and is

prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

## A. Overview of Information Collection

*Title of Information Collection:* Survey of Market Absorption of New Multifamily Units.

*OMB Approval Number:* 2528-0013.

*Type of Request:* Extension without change to a currently approved collection.

*Form Number:* N/A.

*Description of the need for the information and proposed use:* The Survey of Market Absorption (SOMA) provides the data necessary to measure the rate at which new rental apartments and new condominium apartments are absorbed; that is, taken off the market, usually by being rented or sold, over the course of the first 12 months following completion of a building. The data are collected at quarterly intervals until the 12 months conclude, or until the units in a building are completely absorbed. The survey also provides estimates of certain characteristics, including asking rent/price, number of units, and number of bedrooms. The survey provides a basis for analyzing the degree to which new apartment construction is meeting the present and future needs of the public.

*Members of affected public:* Rental Agents/Builders.

*Estimated Number of Respondents:* 12,000 yearly (maximum).

*Estimated Time per Response:* 15 minutes/initial interview and 5 minutes for any subsequent interviews (up to three additional, if necessary).

*Frequency of Response:* Four times (maximum).

*Estimated Total Annual Burden Hours:* 6,000 (12,000 buildings × 30 minutes).

*Estimated Total Annual Cost:* The only cost to respondents is that of their time. The total estimated cost to HUD in FY 2023 is \$1,940,000.

*Legal Authority:* The survey is conducted under title 12, United States Code, section 1701z.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
SOMA .....	12,000	4	48,000	.125 (30 minutes total divided by four interviews).	6,000	\$40.51	\$243,060

*Respondent's Obligation:*  
Participation is voluntary.

#### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected, and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

#### C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

**Todd M. Richardson,**

*General Deputy Assistant Secretary for Policy, Development and Research.*

[FR Doc. 2023-10529 Filed 5-16-23; 8:45 am]

**BILLING CODE 4210-67-P**

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7070-N-26]

#### 30-Day Notice of Proposed Information Collection: Youth Homeless Systems Improvement (YHSI) Program; OMB Control No.: 2506-New

**AGENCY:** Office of Policy Development and Research, Chief Data Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* June 16, 2023.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000; email [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street SW, Room 8210, Washington, DC 20410; email Colette Pollard at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 20, 2023 at 88 FR 16648.

#### A. Overview of Information Collection

*Title of Information Collection:* Youth Homeless Systems Improvement (YHSI).

*OMB Approval Number:* 2506-PENDING.

*Type of Request:* New.

*Form Number:* N/A.

*Description of the need for the information and proposed use:* Congress appropriated funds to the Department of Housing and Urban Development in FY2022 and in FY2023 to competitively award funds to selected communities to develop projects that implement systems infrastructure to better address youth homelessness. The YHSI projects will focus on systems change to create and build capacity for Youth Action Boards; collect and use data from different systems to improve the youth homeless response system; develop strong leaders within a community; and improve the coordination, communication, operation, and administration of homeless assistance projects, including prevention and diversion strategies. This information collection proposal is to competitively award YHSI funds to communities and monitor the progress of the funded project.

*Respondents:* Not-for-profit institutions; State, Local or Tribal Governments.

*Estimated Number of Respondents:* 150.

*Estimated Number of Responses:* 190.

*Frequency of Response:* Biannual.

*Average Hours per Response:* 27.

*Total Estimated Burdens:* 2,670.

Submission documents information collection	Number of respondents	Responses frequency (average)	Total annual responses	Burden hours per response	Total hours	Hourly rate	Burden cost per instrument
<b>Component 1. Project Selection</b>							
YHSI Project Selection Narratives .....	100	1	100	22	2200	\$53.67	\$118,074.00

Submission documents information collection	Number of respondents	Responses frequency (average)	Total annual responses	Burden hours per response	Total hours	Hourly rate	Burden cost per instrument
SF-424—Application for Federal Assistance .....	100	1	100	0	0	53.67	0.00
SF-424B Assurances for Non-Construction Programs .....	100	1	100	0	0	53.67	0.00
OMB-SF-LLL—Disclosure of Lobbying Activities (where applicable) .....	100	1	100	0	0	53.67	0.00
Nonprofit Certification .....	50	1	50	0	0	53.67	0.00
Organizations Code of Conduct .....	100	1	100	0	0	53.67	0.00
Youth Action Board Letter of Support .....	100	1	100	1	100	53.67	5,367.00
Letter of Support-partner agency .....	100	1	100	1	100	53.67	5,367.00
Subtotal .....	100	.....	100	24	2,400	.....	128,808.00
<b>Component 2. Milestone Reporting</b>							
Narrative update on project progress .....	40	2	80	2	160	53.67	8,587.20
Updated milestone chart .....	10	1	10	1	10	53.67	536.70
Subtotal .....	50	.....	90	3	270	.....	9,123.90
Total Application Collection .....	150	.....	190	27	2,670	.....	137,931.90

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

## C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

### Colette Pollard,

Department Reports Management Officer,  
Office of Policy Development and Research,  
Chief Data Officer.

[FR Doc. 2023-10508 Filed 5-16-23; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7070-N-25]

### 30-Day Notice of Proposed Information Collection: Emergency Solutions Grant Data Collection; OMB Control No.: 2506-0089

**AGENCY:** Office of Policy Development and Research, Chief Data Officer, HUD.  
**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* June 16, 2023.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000; email [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

### FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street SW, Room 8210, Washington, DC 20410; email Colette Pollard at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 28, 2023 at 88 FR 12693.

### A. Overview of Information Collection

*Title of Information Collection:*  
Emergency Solutions Grants Program  
Recordkeeping Requirements.

*OMB Approval Number:* 2506-0089.

*Type of Request:* Extension.

*Form Number:* N/A.

*Description of the need for the information and proposed use:* This submission is to request a revision of a currently approved collection for the reporting burden associated with program and recordkeeping requirements that Emergency Solutions Grants (ESG) program recipients will be expected to implement and retain. This submission is limited to the

recordkeeping burden under the ESG program. To see the regulations for the ESG program and applicable supplementary documents, visit the ESG page on the HUD Exchange at <https://www.hudexchange.info/programs/esg/>. The statutory provisions and the implementing interim regulations (also found at 24 CFR 576) that govern the program require these recordkeeping requirements.

*Respondents:* ESG recipient and subrecipient lead persons.

*Estimated Number of Respondents:* The ESG record keeping requirements include 18 distinct activities. Each activity requires a different number of respondents ranging from 20 to 78,000. There are 78,000 unique respondents.

*Estimated Number of Responses:* 546,116.

*Frequency of Response:* Each activity also has a unique frequency of response, ranging from once annually to monthly.

*Average Hours per Response:* Each activity also has a unique associated number of hours of response, ranging from 15 minutes to 12 hours and 45 minutes.

*Total Estimated Burdens:* The total number of hours needed for all reporting is 387,522 hours.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
576.100(b)(2) Emergency Shelter and Street Outreach Cap .....	360	1	360	1	360	45.14	16,250.40
576.400(a) Consultation with Continuums of Care .....	360	1	360	6	2,160.00	45.14	97,502.40
576.400(b) Coordination with other Targeted Homeless Services .....	2,360.00	1	2,360.00	8	18,880.00	45.14	852,243.20
576.400(c) System and Program Coordination with Mainstream Resources .....	2,360.00	1	2,360.00	16	37,760.00	45.14	1,704,486.40
576.400(d) Centralized or Coordinated Assessment .....	2,000.00	1	2,000.00	3	6,000.00	45.14	270,840.00
576.400(e) Written Standards for Determining the Amount of Assistance .....	808	1	808	5	4,040.00	45.14	182,365.60
576.400(f) Participation in HMIS .....	78,000.00	1	78,000.00	0.5	39,000.00	45.14	1,760,460.00
576.401(a) Initial Evaluation .....	50,000.00	1	50,000.00	1	50,000.00	45.14	2,257,000.00
576.401(b) Recertification .....	20,000.00	2	40,000.00	0.5	20,000.00	45.14	902,800.00
576.401 (d) Connection to Mainstream Resources .....	78,000.00	3	234,000.00	0.25	58,500.00	45.14	2,640,690.00
576.401(e) Housing retention plan .....	50,000.00	1	50,000.00	0.75	37,500.00	45.14	1,692,750.00
576.402 Terminating Assistance .....	808	1	808	4	3,232.00	45.14	145,892.48
576.403 Habitability review .....	52,000.00	1	52,000.00	0.6	31,200.00	45.14	1,408,368.00
576.405 Homeless Participation .....	2,360.00	12	28,320.00	1	28,320.00	45.14	1,278,364.80
576.500 Recordkeeping Requirements .....	2,360.00	1	2,360.00	12.75	30,090.00	45.14	1,358,262.60
576.501(b) Remedial Actions .....	20	1	20	8	160	45.14	7,222.40
576.501(c) Recipient Sanctions .....	360	1	360	12	4,320.00	45.14	195,004.80
576.501(c) Subrecipient Response .....	2,000.00	1	2,000.00	8	16,000.00	45.14	722,240.00
<b>Total .....</b>	<b>78,000.00</b>	<b>.....</b>	<b>546,116.00</b>	<b>.....</b>	<b>387,522.00</b>	<b>.....</b>	<b>17,492,743.08</b>

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

## C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

**Colette Pollard,**

*Department Reports Management Officer,  
Office of Policy Development and Research,  
Chief Data Officer.*

[FR Doc. 2023-10507 Filed 5-16-23; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[BLM\_CO\_FRN\_MO4500170740]

### Colorado's Rocky Mountain Resource Advisory Council To Meet in June

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meetings.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Colorado's Rocky Mountain Resource Advisory

Council (RAC) is announcing its 2023 summer meeting.

**DATES:** The Rocky Mountain RAC will meet in June on the following days:

- The RAC will meet in-person on June 22, 2023, from 8 a.m. to 4 p.m. Mountain Time (MT).
- An optional field tour for RAC members will be conducted on June 23, 2023, from 9 a.m. to noon MT.

All meetings and field tours are open to the public.

**ADDRESSES:** The June 22, 2023, meeting will be held at the BLM's San Luis Valley Field Office, 1313 E. Highway 160, Monte Vista, CO 81144. A virtual option will be offered through the Zoom platform. Virtual meeting registration and field tour participation information will be available on the RAC's web page 30 days in advance of the meetings at <https://www.blm.gov/get-involved/resource-advisory-council/near-you/colorado/rocky-mountain-rac>.

The June 23, 2023, field tour will commence at 9 a.m. and attendees should meet at the San Luis Valley Field Office, 1313 E Highway 160, Monte Vista, CO 81144. Attendees will then travel to grazing allotments in the San Luis Valley.

**FOR FURTHER INFORMATION CONTACT:** Levi Spellman, Public Affairs Specialist; BLM Rocky Mountain District Office, 3028 E Main St., Cañon City, CO, 81212; telephone: (719) 269-8553; email: [lsPELLMAN@blm.gov](mailto:lsPELLMAN@blm.gov). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Melanie Hornsby. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** The 15-member Rocky Mountain RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in the Rocky Mountain District of Colorado, including the Royal Gorge Field Office, San Luis Valley Field Office, and Browns Canyon National Monument. Agenda topics for the June 22, 2023, meeting will include an overview of the roles and responsibilities of RAC members, administrative housekeeping, field and district manager updates, discussions on the Browns Canyon National Monument Ethnographic Study, the Penrose Commons Recreation Area Management Plan, the Public Lands Rule, solar energy development, and grazing issues within the San Luis Valley Field Office, as well as topics raised during discussion.

A public comment period is scheduled for 3 p.m. on June 22, 2023. Comments may be limited due to time constraints. Written comments submitted at least 7 days prior to the meeting will be provided to the RAC in advance for consideration. Comments may be submitted to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Please include “RAC Comment” in your submission. Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment—including your personally identifying information—may be made publicly available at any time. While individuals may request their personally identifying information to be withheld from public view, we cannot guarantee that we will be able to do so.

Members of the public are welcome on field tours but must provide their own transportation and meals. Individuals who plan to attend must RSVP to the BLM Rocky Mountain District Office at least 2 weeks in

advance of the field tours to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least 7 business days prior to the meeting to give the BLM sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Additional information regarding the meetings will be available on the RAC’s web page at <https://www.blm.gov/get-involved/resource-advisory-council/near-you/colorado/rocky-mountain-rac>.

Detailed minutes for the RAC meetings will be maintained in the Rocky Mountain District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Previous minutes and agendas are also available on the RAC’s web page.

(Authority: 43 CFR 1784.4-2.)

**Douglas J. Vilsack,**  
BLM Colorado State Director.

[FR Doc. 2023-10546 Filed 5-16-23; 8:45 am]

**BILLING CODE 4331-16-P**

## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-1363]

### Certain Lidar (Light Detection and Ranging) Systems and Components Thereof; Notice of Institution

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 11, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of Ouster, Inc. of San Francisco, California. A supplement was filed on April 19, 2023. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain LiDAR (Light Detection and Ranging) systems and components thereof by reason of the infringement of certain claims of U.S. Patent No. 11,175,405 (“the ‘405 patent”); U.S. Patent No. 11,178,381 (“the ‘381

patent”); U.S. Patent No. 11,190,750 (“the ‘750 patent”); U.S. Patent No. 11,287,515 (“the ‘515 patent”); and U.S. Patent No. 11,422,236 (“the ‘236 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

### SUPPLEMENTARY INFORMATION:

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2023).

**Scope of Investigation:** Having considered the complaint, the U.S. International Trade Commission, on May 10, 2023, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 21 and 23–34 of the ‘405 patent; claims 1–3, 5–8, and 10–17 of the ‘381 patent; claims 44–48, and 50 of the ‘750 patent; claims 1–2, 4–6, 8–9, 12–14, 17, 19–23, and 25 of the ‘515 patent; and claims 1–2 and 7–27 of the ‘236 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "digital LiDAR ('Light Detection and Ranging') devices, components thereof, and systems containing the same, that utilize LiDAR technology which remotely senses the external environment";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) *The complainant is:*

Ouster, Inc., 350 Treat Avenue, San Francisco, CA 94110.

(b) The respondents are the following entities alleged to be in violation of section 337, and the parties upon which the complaint is to be served:

Hesai Group, 9th Floor, Building L2-B, 1588 Zhuguang Road, Qingpu District, Shanghai 201702, China

Hesai Technology Co., Ltd., 9th Floor, Building L2-B, 1588 Zhuguang Road, Qingpu District, Shanghai 201702, China

Hesai Inc., 3500 W Bayshore Rd., Palo Alto, CA 94303

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR. 210.13. Pursuant to 19 CFR. 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the

Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10478 Filed 5-16-23; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1291]

### Certain Replacement Automotive Lamps; Notice of Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submission on Remedy, the Public Interest, and Bonding; Extension of the Target Date

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination ("Final ID") issued by the presiding administrative law judge ("ALJ") finding a violation of section 337 of the Tariff Act of 1930. The Commission requests briefing from the parties on the issues under review and from the parties, interested government agencies, and interested persons on remedy, the public interest, and bonding based on the schedule set forth below. The Commission has also determined to extend the target date for the completion of the above-captioned investigation to September 26, 2023.

#### FOR FURTHER INFORMATION CONTACT:

Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). Hearing-impaired persons are advised

that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On January 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed on behalf of complainants Kia Corporation of Seoul, Korea and Kia America, Inc. of Irvine, California (collectively, "Kia"). 87 FR 3584-85 (Jan. 24, 2022). The complaint, as supplemented and amended, alleges a violation of section 337 in the importation into the United States, the sale for importation, and the sale after importation within the United States after importation of certain replacement automotive lamps by reason of infringement of U.S. Design Patent Nos. D592,773; D635,701; D636,506; D650,931; D695,933; D705,963; D709,218; D714,975; D714,976; D720,871; D749,757; D749,762; D749,764; D774,222; D774,223; D776,311; D781,471; D785,833; D785,836; and D792,989. *Id.* at 3584. The notice of investigation names as respondents TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; Genera Corporation (dba TYC Genera) of Brea, California; LKQ Corporation of Chicago, Illinois; and Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (together, "Respondents"). The Office of Unfair Import Investigations is not participating in this investigation.

On February 7, 2022, the Chief ALJ ("CALJ") ordered an evidentiary hearing for both Inv. Nos. 337-TA-1291 and 337-TA-1292 on the economic prong pursuant to the Commission's pilot program for interim initial determinations ("IID"). Order No. 6 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Kia has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. The investigation was reassigned to the presiding ALJ on July 6, 2022.

On January 24, 2023, the ALJ issued the Final ID finding a violation of section 337 by Respondents with respect to '773, '701, '506, '931, '933, '218, '975, '976, '871, '762, '764, '222, '223, '311, '833, '836, and '989 patents. Final ID at 1. The Final ID finds no violation with respect to the '963, '757, and '471 patents based on noninfringement and failure to satisfy

the technical prong of the domestic industry requirement. *Id.* at 1, 284–86. The Final ID also finds that no asserted patent is invalid as anticipated or obvious. *Id.* Concerning the economic prong of the domestic industry requirement, the Final ID reduced Kia's alleged investments due to Kia's failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products. *Id.* at 33–37.

On February 6, 2023, Respondents filed a petition for review challenging the Final ID's findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Kia filed a petition for review challenging the Final ID's findings of noninfringement and contingently petitioning regarding the Final ID's findings concerning non-satisfaction of the technical prong of the domestic industry requirement regarding the '963, '757, and '471 patents. On February 14, 2023, Kia and Respondents filed responses to each other's petitions.

Having examined the record of this investigation, including the ALJ's Final ID, the petitions for review, and the responses thereto, the Commission has determined to review the Final ID in its entirety. The Commission has also determined to extend the target date for the completion of the investigation until September 26, 2023.

In connection with its review, the Commission requests briefing on the following issues. The parties are requested to brief their positions with reference to the applicable law, the existing evidentiary record, and the parties' submissions during the investigation.

1. Please identify, with citations to the record prior to the Final ID, where Kia satisfied its burden of proof to establish infringement of each asserted patent by applying the ordinary observer test. As a part of your discussion, please discuss:

a. the impact, if any, of the Final ID's determination not to rely upon the testimony of Kia's expert in the Final ID's infringement analysis because such testimony is conclusory. Final ID at 33.

b. what evidence and argument beyond side-by-side images of the patented designs and accused products, if anything, is needed to satisfy the burden of proof, and whether Kia provided that proof, in this investigation. For example, was Kia required to provide a written explanation in its prehearing and/or post hearing briefs discussing how the accused products and each asserted patent are "substantially the same" from

the perspective of the ordinary observer?

2. Please identify, with citation to the record prior to the Final ID, where Kia satisfied its burden of proof to establish the technical prong of the domestic industry requirement for each asserted patent. As part of your discussion, please discuss what evidence and argument beyond side-by-side images of the patented designs and asserted domestic industry products, if anything, is needed to satisfy the burden of proof, and whether Kia provided that proof, in this investigation. For example, was Kia required to provide a written explanation in its prehearing and/or post hearing briefs discussing how the asserted domestic industry products and each asserted patent are "substantially the same" from the perspective of the ordinary observer?

3. Please discuss whether Kia satisfied its burden of proof to establish that it has satisfied the economic prong of the domestic industry requirement through significant investments in plant and equipment based on the revised patent-by-patent investments to account for the non-representative products. Please also identify, with citations to the record prior to the Final ID, where Kia satisfied its burden of proof as to the significance of the revised investments for each patent.

4. Please address whether the Final ID, in finding infringement or satisfaction of the technical prong as to the asserted design patents despite complainants' failure to provide a written explanation regarding similarity between the accused product and asserted design from the standpoint of the ordinary observer, is consistent with relevant legal authority. Please specifically address whether the Final ID, by providing such a written explanation in the first instance, presents issues under the Administrative Procedure Act.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information

establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no position on the Commission's action. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**Written Submissions:** The Commission requests that the parties to the investigation file written submissions on the issues identified in this notice. The Commission encourages parties to the investigation, interested government agencies, and any other interested parties to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding, which issued on January 24, 2023. The Commission further requests that Kia submit proposed remedial orders, state the date when the asserted patents expire, provide the HTSUS subheadings under which the subject articles are imported, and supply a list of known importers of the subject article. The written submissions, exclusive of any exhibits, must not exceed 50 pages, and must be filed no later than close of business on May 25, 2023. Reply submissions must not exceed 20 pages, and must be filed



no later than the close of business on June 1, 2023. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1291) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on May 11, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10477 Filed 5-16-23; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731-TA-1588-1590 (Final)]**

### Certain Preserved Mushrooms From the Netherlands, Poland, and Spain

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of certain preserved mushrooms from the Netherlands, Poland, and Spain, provided for in subheading 2003.10.01 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV").<sup>2</sup>

#### Background

The Commission instituted these investigations effective March 31, 2022, following receipt of petitions filed with the Commission and Commerce by Giorgio Foods, Inc., Blandon, Pennsylvania. The Commission established a general schedule for the conduct of the final phase of its investigations on certain preserved mushrooms, following a preliminary determination by Commerce that imports of certain preserved mushrooms from France were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 21, 2022 (87 FR 57717). The Commission conducted its hearing on November 17, 2022. All persons who requested the opportunity were permitted to participate.

<sup>1</sup> The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

<sup>2</sup> 88 FR 18115, 88 FR 18118, and 88 FR 18120 (March 27, 2023).

The investigations schedules became staggered when Commerce did not postpone the final determination for its antidumping duty investigation of certain preserved mushrooms from France, while it did postpone the final determinations for its antidumping duty investigations of certain preserved mushrooms from the Netherlands, Poland, and Spain. On January 12, 2023, the Commission issued a final affirmative determination in its antidumping duty investigation of certain preserved mushrooms from France (88 FR 2971, January 18, 2023). Following notification of a final determination by Commerce that imports of certain preserved mushrooms from the Netherlands, Poland, and Spain were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)), notice of the supplemental scheduling of the final phase of the Commission's antidumping duty investigations was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 5, 2023 (88 FR 20187).

The Commission made these determinations pursuant to § 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on May 11, 2023. The views of the Commission are contained in USITC Publication 5419 (May 2023), entitled *Certain Preserved Mushrooms from the Netherlands, Poland, and Spain: Investigation Nos. 731-TA-1588-1590 (Final)*.

By order of the Commission.

Issued: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10439 Filed 5-16-23; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337-TA-1292]**

### Certain Replacement Automotive Lamps II; Notice of Commission Determination To Review a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding; Extension of the Target Date

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade

Commission has determined to review a final initial determination (“FID”) issued by the presiding Chief Administrative Law Judge (“CALJ”) finding a violation of section 337 of the Tariff Act of 1930. The Commission requests briefing from the parties on the issues under review and from the parties, interested government agencies, and interested persons on remedy, the public interest, and bonding based on the schedule set forth below. The Commission has also determined to extend the target date for the completion of the above-captioned investigation to September 26, 2023.

**FOR FURTHER INFORMATION CONTACT:**

Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** On January 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on a complaint filed by Hyundai Motor Company of Seoul, Republic of Korea and Hyundai Motor America, Inc. of Fountain Valley, CA (collectively, “Hyundai”). See 87 FR 3583–84 (Jan. 24, 2022). The complaint alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain replacement automotive lamps by reason of infringement of certain claims of U.S. Design Patent Nos. D617,478; D618,835; D618,836; D631,583; D637,319; D640,812; D655,835; D664,690; D709,217; D736,436; D738,003; D739,057; D739,574; D740,980; D759,864; D759,865; D771,292; D780,351; D818,163; D829,947; and D834,225 (collectively, “Asserted Patents”). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names four respondents: (1) TYC Brother Industrial Co., Ltd. of Tainan, Taiwan; (2) Genera Corporation (dba. TYC Genera) of Brea, California;

(3) LKQ Corporation of Chicago, Illinois; and (4) Keystone Automotive Industries, Inc. of Exeter, Pennsylvania (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations is not named as a party.

On February 7, 2022, the CALJ ordered an evidentiary hearing for both Inv. Nos. 337–TA–1291 and 337–TA–1292 on the economic prong of the domestic industry requirement pursuant to the Commission’s pilot program for interim initial determinations (“IID”). See Order No. 7 (Feb. 7, 2022). The combined evidentiary hearing was held on April 20, 2022. On July 1, 2022, the CALJ issued an IID finding that Hyundai has satisfied the economic prong of the domestic industry requirement with respect to all of the asserted design patents. On August 24, 2022, the Commission determined to review the IID. See Comm’n Notice (Aug. 24, 2022).

On January 24, 2023, the CALJ issued the subject FID finding a violation of section 337 by Respondents based on infringement of each of the Asserted Patents. The FID also finds that no Asserted Patent is invalid as anticipated or obvious. The FID further finds that Hyundai has satisfied the technical prong as to certain representative domestic industry products. Concerning the economic prong of the domestic industry requirement, the FID reduces Hyundai’s alleged investments due to Hyundai’s failure to establish that certain of its alleged domestic industry products are representative of other alleged domestic industry products. The FID then finds that the economic prong of the domestic industry requirement is satisfied for all of the Asserted Patents based on the reduced investments. The CALJ also simultaneously issued a recommended determination on remedy and bonding (“RD”) recommending that, if the Commission finds a violation, it should issue a limited exclusion order but not issue any cease and desist order against any of the Respondents.

On February 6, 2023, Respondents filed a petition for review challenging the FID’s findings on the economic prong of the domestic industry requirement, infringement, and validity. Also on February 6, 2023, Hyundai filed a petition for review challenging the RD’s recommendations and contingently petitioning regarding the FID’s findings concerning non-satisfaction of the technical prong of the domestic industry requirement for certain non-representative products. On February 14, 2023, Respondents and Hyundai filed responses to each other’s petitions.

Having examined the record of this investigation, including the CALJ’s FID,

the petitions for review, and the responses thereto, the Commission has determined to review the FID in its entirety. The Commission has also determined to extend the target date for the completion of the investigation until September 26, 2023.

In connection with its review, the Commission requests responses to the following questions. The parties are requested to brief their positions with reference to the applicable law, the existing evidentiary record, and the parties’ submissions during the investigation.

1. Please identify, with citations to the record prior to the FID, where Hyundai satisfied its burden of proof to establish infringement of each asserted patent by applying the ordinary observer test. As a part of your discussion, please discuss:

a. the impact, if any, of the FID’s statement that “rejecting Mr. Schiavone’s testimony would not change [the] determination regarding infringement.” FID at 25, n.10.

b. what evidence and argument beyond side-by-side images of the patented designs and accused products, if anything, is needed to satisfy the burden of proof, and whether Hyundai provided that proof, in this investigation. For example, was Hyundai required to provide a written explanation in its prehearing and/or post hearing briefs discussing how the accused products and each asserted patent are “substantially the same” from the perspective of the ordinary observer?

2. Please identify, with citation to the record prior to the FID, where Hyundai satisfied its burden of proof to establish the technical prong of the domestic industry requirement for each asserted patent. As part of your discussion, please discuss what evidence and argument beyond side-by-side images of the patented designs and asserted domestic industry products, if anything, is needed to satisfy the burden of proof, and whether Hyundai provided that proof, in this investigation. For example, was Hyundai required to provide a written explanation in its prehearing and/or post hearing briefs discussing how the asserted domestic industry products and each asserted patent are “substantially the same” from the perspective of the ordinary observer?

3. Please discuss whether Hyundai satisfied its burden of proof to establish that it has satisfied the economic prong of the domestic industry requirement through significant investments in plant and equipment based on the revised patent-by-patent investments to account

for the non-representative products. Please also identify, with citations to the record prior to the FID, where Hyundai satisfied its burden of proof as to the significance of the revised investments for each patent.

4. Please address whether the FID, in finding infringement or satisfaction of the technical prong as to the asserted design patents despite complainants' failure to provide a written explanation regarding similarity between the accused products and asserted design from the standpoint of the ordinary observer, is consistent with relevant legal authority. Please specifically address whether the FID, by providing such a written explanation in the first instance, presents issues under the Administrative Procedure Act.

The parties are invited to brief only the discrete issues requested above. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. See Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**Written Submissions:** The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the CALJ on remedy and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the Asserted Patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on May 25, 2023. Reply submissions must be filed no later than the close of business on June 1, 2023. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Opening submissions are limited to 50 pages. Reply submissions are limited to 30 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1292) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions

regarding filing should contact the Secretary, (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on May 11, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 11, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10476 Filed 5-16-23; 8:45 am]

**BILLING CODE 7020-02-P**

**INTERNATIONAL TRADE  
COMMISSION****[Investigation No. 731-TA-683 (Fifth  
Review)]****Fresh Garlic From China****Determination**

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the antidumping duty order on fresh garlic from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

**Background**

The Commission instituted this review on October 3, 2022 (87 FR 59824) and determined on January 6, 2023 that it would conduct an expedited review (88 FR 20186, April 5, 2023).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on May 12, 2023. The views of the Commission are contained in USITC Publication 5425 (May 2023), entitled *Fresh Garlic from China: Investigation No. 731-TA-683 (Fifth Review)*.

By order of the Commission.

Issued: May 12, 2023.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2023-10531 Filed 5-16-23; 8:45 am]

**BILLING CODE 7020-02-P**

**DEPARTMENT OF JUSTICE****Notice of Lodging of Proposed  
Consent Decree Under the  
Comprehensive Environmental  
Response, Compensation, and Liability  
Act ("CERCLA")**

On May 11, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Massachusetts in the lawsuit entitled *United States of America and Commonwealth of Massachusetts v. American Bilrite Inc., et al.*, Civil Action No. 1:23-cv-11044.

The United States seeks performance of a remedial design/remedial action and reimbursement of response costs

under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607, concerning Operable Unit 1 ("OU1"), Operable Unit 2 ("OU2"), and Operable Unit 3 ("OU3") of the Olin Chemical Superfund Site ("Site"), located in Wilmington, Massachusetts. The Commonwealth of Massachusetts is co-plaintiff.

Under the proposed consent decree, four Settling Defendants (American Bilrite Inc., NOR-AM Agro LLC, Olin Corporation, and Stepan Company) agree to perform the final remedial action for OU1 and OU2, and the interim remedial action for OU3, that are identified in the United States Environmental Protection Agency's ("EPA") Record of Decision relating to the Site, dated March 30, 2021. The total estimated cost of the remedial cleanup is approximately \$48.2 million. The proposed consent decree also requires the Settling Defendants to pay the United States' past and future Site-related response costs, and to pay the Commonwealth's future Site-related response costs.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *United States of America and Commonwealth of Massachusetts v. American Bilrite Inc., et al.*, Civil Action No. 1:23-cv-11044, D.J. Ref. No. 90-11-3-08919/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<i>pubcomment-ees.enrd@ usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$189.75 (25 cents per page reproduction cost) for the consent decree with appendix, or \$10.75 for the consent decree without the appendix, payable to the United States Treasury.

**Henry S. Friedman,**

*Assistant Section Chief, Environmental  
Enforcement Section, Environment and  
Natural Resources Division.*

[FR Doc. 2023-10505 Filed 5-16-23; 8:45 am]

**BILLING CODE 4410-15-P**

**DEPARTMENT OF JUSTICE**

**[OMB Number 1140-0020]**

**Agency Information Collection  
Activities; Proposed eCollection  
eComments Requested; Firearms  
Transaction Record/Registro de  
Transacción de Armas de Fuego**

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** volume 88, page 14178 on March 7, 2023, allowing a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for 30 days until June 16, 2023.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact the Jason Gluck, Firearms Enforcement Specialist, Firearms Industry Program Branch, by mail at 99 New York Ave. NE, 6N-512, Washington, DC 20226, or telephone at 202-648-7190.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

<sup>1</sup> The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

- whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the information collection or the OMB Control Number 1140–0020. This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

#### Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *Title of the Form/Collection:* Firearms Transaction Record/Registro de Transacción de Armas de Fuego.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form number: ATF Form 4473 (5300.9).

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. Affected public who will be asked or required to respond, as well as a brief abstract:

*Affected Public:* Individuals or households.

**Abstract:** The Firearms Transaction Record/Registro de Transacción de Armas de Fuego allows Federal firearms licensees to determine the eligibility of persons purchasing firearms. It also alerts buyers to certain restrictions on the receipt and possession of firearms. The revisions are due to material changes to the form, such as added checkboxes, revised questions, new questions added, instruction clarification, grammatical changes (sentence rephrasing/statement modification) and formatting changes (added header).

5. *Obligation to Respond:* Mandatory per 27 CFR 478.124.

6. *Total Estimated Number of Respondents:* 16,102,962.

7. *Frequency:* Once a year.

8. *Time per Response:* 30 minutes.

9. *Total Estimated Annual Time Burden:* 8,051,481 hours.

10. *Total Estimated Annual Other Costs Burden:* \$0.

*If additional information is required, contact:* John R. Carlson, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: May 12, 2023.

**John R. Carlson,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2023–10535 Filed 5–16–23; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Workforce Recruitment Program (WRP)

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Office of Disability Employment Policy (ODEP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that the agency receives on or before June 16, 2023.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular

information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

*Comments are invited on:* (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

#### FOR FURTHER INFORMATION CONTACT:

Nicole Bouchet by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** Managed by the U.S. Department of Labor in collaboration with the U.S. Department of Defense, the Workforce Recruitment Program is the premier resource of qualified college students and recent graduates with disabilities, from a large selection of colleges and universities nationwide. Candidates represent a wide variety of academic majors and career interests including business, law, and Science, Technology, Engineering and Mathematics. In addition, 10% of the database is comprised of veterans with disabilities. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 10, 2023 (88 FR 8913).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL–ODEP.

*Title of Collection:* Workforce Recruitment Program (WRP).  
*OMB Control Number:* 1230-0017.  
*Affected Public:* Private Sector—Individuals or Households.  
*Total Estimated Number of Respondents:* 2,500.  
*Total Estimated Number of Responses:* 2,500.  
*Total Estimated Annual Time Burden:* 2,500 hours.  
*Total Estimated Annual Other Costs Burden:* \$0.  
 (Authority: 44 U.S.C. 3507(a)(1)(D))

**Nicole Bouchet,**  
 Senior PRA Analyst.

[FR Doc. 2023-10479 Filed 5-16-23; 8:45 am]

BILLING CODE 4510-26-P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2023-029]

### Advisory Committee on the Records of Congress; Meeting

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of Federal advisory committee meeting.

**SUMMARY:** We are announcing an upcoming meeting of the Advisory Committee on the Records of Congress in accordance with the Federal Advisory Committee Act. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Legislative Archives, Presidential Libraries, and Museum Services (LPM).

**DATES:** The meeting will be on June 5, 2023, from 10 a.m. to 12 p.m. EDT.

**ADDRESSES:** The meeting will take place at the U.S. Capitol Visitor Center, South Congressional Meeting Room, SVC 209-208, U.S. Capitol at First Street and East Capitol Street.

**SUPPLEMENTARY INFORMATION:** This meeting is open to the public. Due to restricted access at the U.S. Capitol Visitor Center, members of the public who wish to attend the Advisory Committee on the Records of Congress meeting are required to register for access to the meeting no later than Friday, June 2, 2023, by emailing the Secretary of the Senate Office at [karen\\_paul@sec.senate.gov](mailto:karen_paul@sec.senate.gov) with your name and contact information.

Due to building security measures, attendees will be screened before entry and cannot bring certain items into the building. Please see <https://www.visitthecapitol.gov/plan-visit/>

*prohibited-items* for a list of prohibited items.

### Agenda

- (1) Chair's Opening Remarks—Secretary of the U.S. Senate
- (2) Recognition of Co-chair—Clerk of the U.S. House of Representatives
- (3) Recognition of the Archivist of the United States
- (4) Approval of the minutes of the last meeting
- (5) Senate Archivist's report
- (6) House Archivist's report
- (7) Center for Legislative Archives update
- (8) Other current issues and new business

**Tasha Ford,**

Committee Management Officer.

[FR Doc. 2023-10510 Filed 5-16-23; 8:45 am]

BILLING CODE 7515-01-P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2023-028]

### National Industrial Security Program Policy Advisory Committee (NISPPAC); Meeting

**AGENCY:** Information Security Oversight Office (ISOO), National Archives and Records Administration (NARA).

**ACTION:** Notice of federal advisory committee meeting.

**SUMMARY:** We are announcing an upcoming National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting in accordance with the Federal Advisory Committee Act and implementing regulations.

**DATES:** The meeting will be on June 5, 2023, from 2 p.m. to 5 p.m. EDT.

**ADDRESSES:** This meeting will be a hybrid of virtual and in person in New Orleans, LA. See supplementary procedures below.

**FOR FURTHER INFORMATION CONTACT:** Heather Harris Pagán, ISOO Program Analyst, by telephone at 202.357.5351 or by email at [ISOO@nara.gov](mailto:ISOO@nara.gov). Contact ISOO at [ISOO@nara.gov](mailto:ISOO@nara.gov) and the NISPPAC at [NISPPAC@nara.gov](mailto:NISPPAC@nara.gov).

**SUPPLEMENTARY INFORMATION:** This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulations at 41 CFR 102-3. The Committee will discuss National Industrial Security Program policy matters.

**Procedures:** Members of the public must register in advance for the virtual meeting through the Event Services link

<https://ems8.intellor.com?do=register&t=1&p=847094> if they wish to attend. NISPPAC members, ISOO employees, and speakers should send an email to [NISPPAC@nara.gov](mailto:NISPPAC@nara.gov) for the appropriate registration information instead of registering with the above link.

**Tasha Ford,**

Committee Management Officer.

[FR Doc. 2023-10488 Filed 5-16-23; 8:45 am]

BILLING CODE 7515-01-P

## POSTAL REGULATORY COMMISSION

[Docket No. CP2023-151; Order No. 6508]

### Competitive Price Changes

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is recognizing a recently filed Postal Service document with the Commission concerning changes in rates and classifications of general applicability for Competitive products. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 1, 2023.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Summary of Changes
- III. Initial Administrative Actions
- IV. Ordering Paragraphs

#### I. Introduction

On May 10, 2023, the Postal Service filed notice with the Commission concerning changes in rates and classifications of general applicability for Competitive products.<sup>1</sup> The Postal Service represents that, as required by 39 CFR 3035.102(b) and 39 CFR

<sup>1</sup> USPS Notice of Changes in Rates and Classifications of General Applicability for Competitive Products, May 10, 2023 (Notice). Pursuant to 39 U.S.C. 3632(b)(2), the Postal Service is obligated to publish the Governors' Decision and record of proceedings in the **Federal Register** at least 30 days before the effective date of the new rates.

3035.104(b), the Notice includes an explanation and justification for the changes, the effective date, and a schedule of the changed rates. Notice at 1. The changes are scheduled to take effect on July 9, 2023. *Id.*

Attached to the Notice is Governors' Decision No. 23–3, which states the new prices are in accordance with 39 U.S.C. 3632 and 3633 and 39 CFR 3035.102.<sup>2</sup> The Governors' Decision provides an analysis of the Competitive products' price and classification changes intended to demonstrate that the changes comply with 39 U.S.C. 3633 and 39 CFR part 3035. Governors' Decision No. 23–3 at 1. The Attachment to the Governors' Decision 23–3 sets forth the classification and price changes and includes draft Mail Classification Schedule (MCS) language for Competitive products of general applicability.

The proposed pricing and classification changes in the Notice assume Commission approval of pending pricing and classification changes proposed in Docket Nos. CP2023–113 and CP2023–114. *See* Notice at 3.

The Notice also includes an application for non-public treatment of the attributable costs, contribution, and cost coverage data in the unredacted version of the annex to the Governors' Decision, as well as the supporting materials for the data. *Id.* at 1–2.

## II. Summary of Changes

Proposed changes are limited to Parcel Select, First-Class Package Service, International Ancillary Services and Special Services, and Officially Licensed Retail Products. No other price or classification changes are proposed in this docket. *See* Governors' Decision 23–3 at 2–3.

**Parcel Select changes.** The proposed changes to the MCS in the Governors' Decision No. 23–3 show the Postal Service's planned price changes for Parcel Select. On average, Parcel Select prices are proposed to increase 1.4 percent. *See id.* at 2. In a change from the proposal under consideration in Docket No. CP2023–114, the Postal Service proposes to maintain its ounce-based prices at 15.999 ounces, as well as including a 1-pound price. *See id.* The Postal Service states that this change is to accommodate mailers' concerns regarding programming changes. *Id.*

<sup>2</sup> Notice, Decision of the Governors of the United States Postal Service on Changes in Rates and Classification of General Applicability for Competitive Products (Governors' Decision No. 23–3), at 1 (Governors' Decision No. 23–3).

**First-Class Package Service changes.** The proposed changes to the MCS in the Governors' Decision No. 23–3 show the Postal Service's planned price changes for First-Class Package Service, which will be renamed as USPS Ground Advantage. On average, Retail prices are proposed to decrease 3.2 percent and Commercial prices are proposed to decrease 0.7 percent. *See id.* at 2–3. In a change from the proposal under consideration in Docket No. CP2023–113, the Postal Service proposes to maintain its ounce-based prices at 15.999 ounces, as well as including a 1-pound price. *See id.* at 3. The Postal Service states that this change is to accommodate mailers' concerns regarding programming changes. *Id.* Other changes listed for First-Class Package Service in Governors' Decision 23–3 were either previously approved in Order No. 6318 or previously proposed in Docket No. CP2023–113.<sup>3</sup>

**International Ancillary Services and Special Services.** The proposed changes to the MCS in the Governors' Decision 23–3 show the Postal Service's planned price changes for International Ancillary Services and Special Services. On average, prices are proposed to increase 6.3 percent. Governors' Decision 23–3 at 3.

**Officially Licensed Retail Products.** The proposed changes to the MCS in the Governors' Decision 23–3 show the Postal Service's planned price changes for Officially Licensed Retail Products. The upper price limit is proposed to increase to \$16,000. *See* Attachment to the Governors' Decision 23–3. The Postal Service states that the increase in the upper bound of the price limit is to give the Postal Service more flexibility to enter into licensing partnerships with retailers on items with a higher price point. Notice at 2.

## III. Initial Administrative Actions

The Commission establishes Docket No. CP2023–151 to consider the Postal Service's Notice. Interested persons may express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E. Comments are due no later than June 1, 2023. For specific details of the planned price changes, interested persons are

<sup>3</sup> *See* Docket Nos. MC2022–81 and MC2022–82, Order Removing USPS Retail Ground from the Competitive Product List and Approving Competitive Classification Changes to First-Class Package Service and Parcel Select, October 28, 2022 (Order No. 6318); Docket No. CP2023–113, USPS Notice of Changes in Rates and Classifications of General Applicability for First-Class Package Service, February 10, 2023.

encouraged to review the Notice, which is available on the Commission's website at [www.prc.gov](http://www.prc.gov).

Pursuant to 39 U.S.C. 505, Arif Hafiz is appointed to serve as Public Representative to represent the interests of the general public in this docket.

## IV. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. CP2023–151 to provide interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E.

2. Comments are due no later than June 1, 2023.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Arif Hafiz to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,  
Secretary.

[FR Doc. 2023–10530 Filed 5–16–23; 8:45 am]

BILLING CODE 7710–FW–P

## POSTAL REGULATORY COMMISSION

[Docket No. MC2023–148; Order No. 6505]

### Classification Changes

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is recognizing a recent Postal Service filing concerning changes in classifications of general applicability for Priority Mail Express and Priority Mail. This notice informs the public of the filings, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* May 22, 2023.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.



**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction and Overview
- II. Loyalty Program
- III. Initial Administrative Actions
- IV. Ordering Paragraphs

**I. Introduction and Overview**

On May 10, 2023, the Postal Service filed notice with the Commission concerning changes in classifications of general applicability for Priority Mail Express and Priority Mail in order to begin the wind down process for its existing Loyalty Program.<sup>1</sup> The Postal Service represents that, as required by 39 CFR 3035.104(b), the Notice includes an explanation and justification for the changes, the effective date, and the record of proceedings regarding the decision. The changes are scheduled to take effect beginning on June 10, 2023. Notice at 1.

Attached to the Notice is Governors' Decision No. 23–4.<sup>2</sup> Also attached to the Notice is draft Mail Classification Schedule (MCS) language for Priority Mail Express and Priority Mail related to the Loyalty Program.

**II. Loyalty Program**

The Notice states that in August 2020, the Postal Service instituted a Loyalty Program to provide small and micro business customers incentives to ship with the Postal Service at Retail rates on the Click-N-Ship platform. Notice at 1. Loyalty Program members could earn credits based on volume shipped via Click-N-Ship at Retail rates. *Id.* at 2. Those credits could be redeemed for 12 months after issuance. *Id.*

According to the Postal Service, although the Loyalty Program has been successful, the Postal Service intends to sunset the Loyalty Program and instead offer its small and micro business customers access to published Commercial rates via Click-N-Ship. *Id.* at 1. The Notice states that those Commercial rates will be available on Click-N-Ship as of May 18, 2023. *Id.* at 2.

The proposed classification changes will take effect on June 10, 2023. *Id.* at 3. At that time, the Postal Service will cease issuing new credits under the Loyalty Program. *Id.* at 2. Any existing credits must be redeemed no later than June 9, 2024. *Id.* During this 1-year wind

down period, customers may redeem their existing credits on any Priority Mail Express and Priority Mail shipments that are made at published Commercial rates. *Id.* At the conclusion of the wind down period, the Postal Service represents that it will submit a subsequent filing to the Commission in order to remove the Loyalty Program from the MCS entirely. *Id.*

**III. Initial Administrative Actions**

The Commission establishes Docket No. MC2023–148 to consider the Postal Service's Notice. Interested persons may express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E. Comments are due no later than May 22, 2023. For specific details of the planned changes, interested persons are encouraged to review the Notice, which is available on the Commission's website at [www.prc.gov](http://www.prc.gov).

Pursuant to 39 U.S.C. 505, Christopher C. Mohr is appointed to serve as Public Representative to represent the interests of the general public in this docket.

**IV. Ordering Paragraphs**

*It is ordered:*

1. The Commission establishes Docket No. MC2023–148 to provide interested persons an opportunity to express views and offer comments on whether the planned changes are consistent with 39 U.S.C. 3632, 3633, and 3642, 39 CFR part 3035, and 39 CFR 3040 subparts B and E.

2. Comments are due no later than May 22, 2023.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Christopher C. Mohr to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Erica A. Barker,**  
*Secretary.*

[FR Doc. 2023–10449 Filed 5–16–23; 8:45 am]

**BILLING CODE 7710–FW–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–97490; File No. SR–CboeBZX–2023–031]

**Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule**

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on May 1, 2023, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX Options”) proposes to amend its fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>1</sup> USPS Notice of Changes in Classifications of General Applicability for Priority Mail Express and Priority Mail (Loyalty Program), May 10, 2023, at 1 (Notice).

<sup>2</sup> Notice, Decision of the Governors of the United States Postal Service on Changes in Classifications of General Applicability for Competitive Products (Governors' Decision No. 23–4), at 1 (Governors' Decision No. 23–4).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.



*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fee Schedule, effective May 1, 2023.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 5% of the market share.<sup>3</sup> Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the

Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides a rebate of \$0.29 per contract for Market Maker orders that add liquidity in Penny Securities, yielding fee code PM. The Fee Codes and Associated Fees section of the Fees Schedule also provide for certain fee codes associated with certain order types and market participants that

provide for various other fees or rebates. Additionally, the Fee Schedule offers tiered pricing which provides Members<sup>4</sup> opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. In response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

The Exchange proposes to update the Market Maker Penny Add Volume Tiers (*i.e.*, applicable to orders yielding fee code PM) set forth in footnote 6 of the Fee Schedule. The Exchange currently provides opportunities for rebates per contract to add liquidity in Penny Securities as follows:

Tier	Rebate per contract to add	Required criteria
Tier 1 .....	(\$0.31)	Member has an ADAV <sup>5</sup> in Market Maker orders $\geq 0.15\%$ of average OCV. <sup>6</sup>
Tier 2 .....	(0.38)	Member has an ADAV in Market Maker orders $\geq 0.25\%$ of average OCV.
Tier 3 .....	(0.39)	Member has an ADAV in Market Maker orders $\geq 0.40\%$ of average OCV.
Tier 4 .....	(0.40)	(1) Member has an ADAV in Market Maker orders $\geq 0.45\%$ of average OCV; and (2) Member has a Step-Up ADRV in Customer orders $\geq 0.05\%$ of OCV from December 2022.
Tier 5 .....	(0.41)	(1) Member has an ADAV in Market Maker orders $\geq 0.50\%$ of average OCV; and (2) Member has a Step-Up ADAV in Market Maker orders in SPY $\geq 0.05\%$ of average OCV from December 2022.
Tier 6 .....	(0.43)	Member has an ADAV in Market Maker orders $\geq 0.60\%$ of average OCV.
Tier 7 .....	(0.44)	(1) Member has an ADAV in Market Maker orders $\geq 0.75\%$ of average OCV; and (2) Member has an ADRV in Customer orders $\geq 0.50\%$ of average OCV.

The Exchange proposes to amend these tiers to remove Tiers 4, 5, and 7.<sup>7</sup> No Members are currently satisfying the criteria under these tiers, and the Exchange no longer wishes to, nor is it required to, maintain the tiers. The Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow. The Exchange also proposes a corresponding non-substantive amendment to update current Tier 6 to Tier 4. The criteria and enhanced rebate offered under this tier remains the same.

Additionally, the Exchange proposes to amend the transaction fee for Customer SPY orders that remove liquidity. Currently, customer orders in

all orders, including SPY, that remove liquidity are assessed a standard transaction fee of \$0.48 per contract and yield fee code "PC". The Exchange now proposes to reduce the fee assessed for Customer SPY orders that remove liquidity to \$0.45 per contract and adopt new fee code "PR" for such orders (and remove SPY orders from fee code "PC").

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule

change is consistent with the section 6(b)(5)<sup>9</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>10</sup> requirement that the rules of an exchange not be designed

<sup>3</sup> See Cboe Global Markets U.S. Options Market Monthly Volume Summary (April 24, 2023), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

<sup>4</sup> See Exchange Rule 1.5(n).

<sup>5</sup> "ADAV" means average daily added volume calculated as the number of contracts added.

<sup>6</sup> "OCC Customer Volume" or "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

<sup>7</sup> The Exchange proposes to eliminate these tiers as described in the table in Footnote 6 and eliminate the amounts of the rebates in the Standard Rates table.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> *Id.*

to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>11</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all market participants. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. The proposed fee changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow, which the Exchange believes would enhance market quality to the benefit of all Members.

The Exchange believes that it is reasonable and equitable to eliminate Market Maker Penny Add Volume Tiers 4, 5 and 7, because the Exchange is not required to maintain these tiers or provide Members an opportunity to receive reduced fees or enhanced rebates. As stated, no Members are currently satisfying the criteria under these tiers, and the Exchange wishes to consolidate this tiered pricing program and redirect resources and funding into other programs and tiers intended to incentivize increased order flow. Further, Members still have other opportunities to obtain reduced fees via the remaining Market Maker Penny Add Volume Tiers 1 through 4, as amended.

The Exchange believes that eliminating Market Maker Penny Add Volume Tiers 4, 5 and 7 is equitable and not unfairly discriminating because it applies uniformly to all Members, in that, such tiers will not be available for any Member. The Exchange also notes that the proposed change will not adversely impact any Member's pricing or their ability to qualify for other rebate tiers. Further, the Market Maker Penny Add Volume Tiers 1 through 4, as amended, will continue to apply uniformly to all qualifying Members, in

that all Members that submit the requisite order flow per each tier program have the opportunity to compete for and achieve the available tiers.

Additionally, the Exchange believes that the proposed adoption of a new fee code for Customer SPY orders that remove liquidity is consistent with section 6(b)(4) of the Act in that the proposed fee is reasonable, equitable, and not unfairly discriminatory. The Exchange believes its proposed change is reasonable as it is competitive and in line with SPY-specific pricing at other exchanges.<sup>12</sup> The Exchange believes the proposed amendment will also encourage market participants to increase retail SPY order flow to the Exchange, which benefits all market participants by providing additional trading opportunities. This, in turn, attracts increased large-order flow from liquidity providers which facilitates tighter spreads and potentially triggers a corresponding increase in order flow originating from other market participants. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory as fee code PR applies automatically and uniformly to all Customer SPY orders that remove liquidity.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to adopt SPY-specific pricing as the Exchange already maintains product-specific pricing for other products, such as RUT.<sup>13</sup> Additionally, as noted above, other exchanges similarly provide for SPY-specific pricing.<sup>14</sup> The Exchange also believes that it is equitable and not unfairly discriminatory to assess a lower fee for Customer SPY orders as compared to other market participants because customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of

these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, the options industry has a long history of providing preferential pricing to customers, and the Exchange's current Fee Schedule currently does so in many places, as do the fees structures of multiple other exchanges.<sup>15</sup>

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposal to eliminate Market Maker Penny Add Volume Tiers 4, 5 and 7 applies to all Members, in that, such tiers will not be available for any Member. The Exchange does not believe the proposed changes burden competition as all Members will continue to have an opportunity receive enhanced rebates or reduced fees offered under various tiers, including Market Maker Penny Add Volume Tier 1 through 4, as amended, which tiers are generally designed to increase the competitiveness of BZX and attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Furthermore, the proposed change to adopt a new fee code for Customer SPY orders that remove liquidity will also apply to all Members. As discussed above, the Exchange believes the proposed change to adopt a new fee code for Customer SPY orders that remove liquidity would attract additional SPY Customer orders that remove liquidity, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all

<sup>12</sup> See e.g., MIAX Pearl Fee Schedule, Section 1 Transaction Rebates/Fees, which provides for a fee of \$0.46 per contract for priority customer SPY orders that remove liquidity. See also Nasdaq ISE Pricing Schedule, Section 3, Footnote 5, which provides for tiered rebates for market-maker SPY orders that add liquidity between \$0.05–\$0.26 per contract.

<sup>13</sup> See BZX Options Exchange Fees Schedule, Fees Codes and Associated Fees.

<sup>14</sup> See e.g., MIAX Pearl Fee Schedule, Section 1 Transaction Rebates/Fees, which provides for a fee range of \$0.42 to \$0.46 per contract for priority customer SPY orders that remove liquidity, based on volume criteria. See also Nasdaq ISE Pricing Schedule, Section 3, Footnote 5, which provides for tiered rebates for market-maker SPY orders that add liquidity between \$0.10–\$0.26 per contract.

<sup>15</sup> See BZX Options Fee Schedule, Fee Codes and Associated Fees. See also Cboe C2 Options Exchange Fees Schedule, Transaction Fees.

<sup>11</sup> 15 U.S.C. 78f(b)(4).

Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow, including 15 other options exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 17% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .". Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>16</sup> and paragraph (f) of Rule 19b-4<sup>17</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2023-031 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CboeBZX-2023-031. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CboeBZX-2023-031 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Sherry R. Haywood,**  
*Assistant Secretary.*

[FR Doc. 2023-10473 Filed 5-16-23; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Investment Company Act Release No. 34915; File No. 812-15304]**

**Hartford Schroders Private Opportunities Fund, et al.**

May 11, 2023

**AGENCY:** Securities and Exchange Commission ("Commission" or "SEC").

**ACTION:** Notice.

Notice of application for an order ("Order") under section 17(d) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d-1 under the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

**APPLICANTS:** Hartford Schroders Private Opportunities Fund, Hartford Funds Management Company, LLC, Schroder Investment Management North America Inc., Schroders Capital Management

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

(US) Inc., Cresta III S.C.S., GPEP V S.C.S., IST3 Manesse PE3 Impact S.C.S., KVT PE S.C.S., Malatrex S.C.S., Marmolata PE Impact S.C.S., Marmolata S.C.S., PSY Private Equity S.C.S., SA-EL II S.C.S., SA-EL Opportunity S.C.S., Salève 2022 S.C.S., SC Global Opportunities S.L.P., Schroder British Opportunities Trust PLC, Schroder UK Public Private Trust PLC, Schroders Capital cPI Global 2023–2025 S.C.S., Schroders Capital Private Equity Asia VI S.C.S., Schroders Capital Private Equity Europe Direct III S.C.S., Schroders Capital Private Equity Europe VIII S.C.S., Schroders Capital Private Equity Global Direct III S.C.S., Schroders Capital Private Equity Global III S.C.S., Schroders Capital Private Equity Global Innovation X S.C.S., Schroders Capital Private Equity Global Innovation XI S.C.S., Schroders Capital Private Equity Healthcare S.C.S., Schroders Capital Private Equity Secondaries IV S.C.S., Schroders Capital Private Equity US V S.C.S., Schroders Capital Private Equity US VI S.C.S., Schroders Capital Semi-Liquid—Circular Economy Private Plus, Schroders Capital Semi-Liquid—Global Innovation Private Plus, Schroders Capital Semi-Liquid Global Private Equity Holding S.C.S., Schroders Capital Taft-Hartley Ventures S.C.S. and Wollstonecraft L.P.

**FILING DATES:** The application was filed on January 27, 2022 and amended on August 19, 2022, December 16, 2022 and April 11, 2023.

**HEARING OR NOTIFICATION OF HEARING:**

An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretaries-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on June 5, 2023, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretaries-Office@sec.gov*.

**ADDRESSES:** The Commission: *Secretaries-Office@sec.gov*. Applicants:

John V. O'Hanlon, Esquire, Dechert LLP, One International Place, 40th Floor, 100 Oliver Street, Boston, Massachusetts 02110–2605, and Thomas R. Phillips, Hartford Funds Management Company, LLC, 690 Lee Road, Wayne, Pennsylvania 19087.

**FOR FURTHER INFORMATION CONTACT:**

Christopher D. Carlson, Senior Counsel, or Daniele Marchesani, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** For Applicants' representations, legal analysis, and conditions, please refer to Applicants' third amended and restated application, dated April 11, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

**Sherry R. Haywood,**  
*Assistant Secretary.*

[FR Doc. 2023–10464 Filed 5–16–23; 8:45 am]

**BILLING CODE 8011–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–97494; File No. SR–LTSE–2023–03]

**Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 2.250 To Remove Obsolete Text**

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on May 2, 2023, Long-Term Stock Exchange, Inc. (“LTSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend LTSE Rule 2.250 (Mandatory Participation in Testing of Backup Systems) to remove obsolete rule text regarding the process it employed to designate certain Members<sup>3</sup> previously subject to the rule to participate in mandatory disaster recovery testing pursuant to Regulation SCI and Rule 2.250 for calendar year 2020.

The text of the proposed rule change is available at the Exchange's website at <https://longtermstockexchange.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

**1. Purpose**

The Exchange proposes to amend LTSE Rule 2.250 (Mandatory Participation in Testing of Backup Systems) to remove obsolete rule text regarding the process it employed to designate certain Members previously subject to the rule to participate in mandatory disaster recovery testing pursuant to Regulation SCI and Rule 2.250 for calendar year 2020.

Regulation SCI requires LTSE, as an SCI entity, to maintain business continuity and disaster recovery plans that provide for resilient and

<sup>3</sup> The term “Member” refers to any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a Member of the Exchange as that term is defined in section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company, or other organization that is a registered broker or dealer pursuant to section 15 of the Act, and which has been approved by the Exchange. See, LTSE Rule 1.160(w).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

geographically diverse backup and recovery capabilities that are reasonably designed to achieve two-hour resumption of critical SCI systems and next business day resumption of other SCI systems following a wide-scale disruption.<sup>4</sup> Rule 1004 under Regulation SCI and LTSE Rule 2.250 also require LTSE to designate certain Members to participate in business continuity and disaster recovery testing in a manner specified by LTSE and at a frequency of not less than once every 12 months.<sup>5</sup> Such testing ordinarily is part of an industry-wide test conducted annually in the month of October.

LTSE Rule 2.250 governs mandatory participation in testing of LTSE's backup systems, and states that LTSE will designate Members that account for a meaningful percentage of executed volume on LTSE, measured on a quarterly basis, as required to connect to LTSE's backup systems and participate in functional and performance testing of such system.<sup>6</sup> Rule 2.250 further provides that if a Member has not previously been subject to the rule, such Member will have until the next calendar quarter before such requirements are applicable.<sup>7</sup>

In July 2020, the Exchange filed a proposed rule change, for immediate effectiveness, to amend Rule 2.250 to provide for special provisions to designate certain Members to participate in mandatory disaster recovery training in calendar year 2020.<sup>8</sup> The rule change was based on the fact that the Exchange was not operational as of the date of the rule filing, and did not become operational until September 9, 2020. As a result, for calendar year 2020, the Exchange did not have two calendar quarters of trading data on which to base its Member designation prior to the October 2020 test. Absent an amendment, Rule 2.250 would not have permitted the Exchange to designate any Members to participate in the industry-wide test for 2020 because no Member would have had a meaningful percentage of executed volume on LTSE upon which a designation could have been made.

To address the unique circumstances for disaster recovery testing in 2020, the Exchange amended Rule 2.250 to add new paragraph (d), which provided that for calendar year 2020, notwithstanding

paragraphs (b) and (c), which assign the Exchange responsibility of "identifying Members that account for a meaningful percentage of the Exchange's overall volume," the Exchange would instead designate at least three Members who have a meaningful percentage of trading volumes in NMS stocks across the other equity exchanges. This rule change allowed the Exchange to identify Members for industry-wide disaster recovery testing in the absence of the LTSE-specific volume metrics that would be used in the ordinary course to designate such firms.

By its terms, Rule 2.250(d) was limited to the special circumstances existing in calendar year 2020 given that the Exchange did not become operational until September 2020, approximately one month prior to the industry test. The special provisions of paragraph (d) were not employed in the 2021 and 2022 industry-wide disaster recovery testing and the Exchange instead relied on the provisions of paragraphs (a) through (c) of the rule in establishing the standards to be used for determining which Members contribute a meaningful percentage of the Exchange's overall volume and thus are required to participate in functional and performance testing.

Accordingly, the Exchange is now proposing to delete paragraph (d) of Rule 2.250 in its entirety as obsolete and unnecessary rule text.

#### b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act,<sup>9</sup> in general, and furthers the objectives of section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange states that its proposed deletion of Rule 2.250(d), which was limited by its terms to the required Regulation SCI testing for calendar year 2020, is obsolete and was only followed for the 2020 testing. The Exchange's participation in the 2021 and 2022 industry testing was based on the process outlined in paragraphs (a) through (c) of Rule 2.250, as was the original intent of the rule. Paragraph (d) was only added to account for the

unique circumstances of industry-wide testing occurring within a short time of when the Exchange commenced trading operations and, as a result, the Exchange would not have had the data to conduct the testing under the process outlined in Rule 2.250(a) through (c). The Exchange believes that its proposed deletion of this obsolete text is consistent with section 6(b)(5) of the Act<sup>11</sup> in that it assures that the Exchange's rules are current and up-to-date, which operates to perfect the mechanism of a free and open market and national market system and in general with the protection of investors and the public interest.

Moreover, as set forth in the SCI Adopting Release, "SROs have the authority, and legal responsibility, under section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest."<sup>12</sup> The Exchange believes that this proposal is consistent with such authority and legal responsibility in that it removes obsolete text from Rule 2.250 and assures that the Exchange's rule aligns with the requirements of Regulation SCI.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment is intended solely to remove obsolete text from Rule 2.250 relating to unique circumstances surrounding the Exchange's participation in industry-wide Regulation SCI testing for calendar year 2020. Consequently, the Exchange does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>4</sup> See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014).

<sup>5</sup> See, LTSE Rule 2.250(a), (b).

<sup>6</sup> See, LTSE Rule 2.250(a), (c).

<sup>7</sup> See, LTSE Rule 2.250(c).

<sup>8</sup> See, Exchange Act Release 34-89216 (July 2, 2020), 85 FR 41259 (July 9, 2020), SR-LTSE-2020-10.

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See, *supra*, note 6.

<sup>12</sup> See *supra* note 4, at 72350.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-LTSE-2023-03 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-LTSE-2023-03. This file number should be included on the subject line if email is used. To help the Commission process and review your

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-LTSE-2023-03 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023-10474 Filed 5-16-23; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-97481; File No. SR-CboeEDGX-2023-033]**

**Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule**

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 28, 2023, Cboe EDGX Exchange, Inc. ("Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX Options") proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

The Exchange proposes to amend its Fee Schedule to modify its market data fees for EDGX Options Top.<sup>3</sup> Particularly, the Exchange proposes to modify the Professional and Non-Professional User Fees, adopt a new Enterprise Fee for EDGX Options Top, and make other clarifying, non-substantive changes.<sup>4</sup>

<sup>3</sup> EDGX Options Top is an uncompressed data feed that offers top of book quotations and execution information based on options orders entered into the System. Uncompressed data is disseminated "as is" in the native format by the Exchange, with no compression.

<sup>4</sup> The Exchange initially filed the proposed fee changes on January 3, 2023 (SR-CboeEDGX-2023-001). On March 1, 2023, the Exchange withdrew that filing and submitted SR-CboeEDGX-2023-015 in place of SR-CboeEDGX-2023-001, which the Exchange withdrew on March 1, 2023. On March 10, 2023 the Exchange withdrew CboeEDGX-2023-015 and submitted SR-CboeEDGX-2023-020. On April 28, 2023, the Exchange withdrew that filing and submitted this filing.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

The Exchange first proposes to reduce the rates for Professional and Non-Professional User fees for EDGX Options Top. The Exchange currently charges Internal Distributors and External Distributors that redistribute any of the EDGX Options Data Feeds different fees for their Professional Users<sup>5</sup> and Non-Professional Users.<sup>6</sup> The Exchange currently assesses a monthly fee for Professional Users of \$10.00 per User and a monthly fee of \$1.00 per Non-Professional User.<sup>7</sup> Further, the Fee Schedule provides that Distributors and Users of any one of EDGX Options market data products (*i.e.*, EDGX Options Top, EDGX Options Depth, EDGX Options Auction Feed, EDGX Options Complex Depth, EDGX Options Complex Top, and EDGX Options Complex Auction Fees) may receive, at no additional charge, access to any or all of the other market data products listed. The Exchange proposes to reduce the rates for the User fees for EDGX Options Top. Particularly, the Exchange proposes to reduce the monthly (i) Professional User fee from \$10 per user to \$5 per user and (ii) Non-Professional User fee from \$1.00 per user to \$0.10 per user. The Exchange also proposes to start charging separate User fees for EDGX Options Top. User Fees for the Exchange's remaining market data products will continue to receive, at no additional charge, access to any or all of the other market data products listed (with the exception of EDGX Options Top). The Exchange has reformatted the Market Data Fees tables to make this clear.<sup>8</sup>

<sup>5</sup> A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.

<sup>6</sup> A "Non-Professional User" of an Exchange Market Data product is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

<sup>7</sup> Distributors that receive EDGX Options Data Feeds are required to count every Professional User and Non-Professional User to which they provide the market data product(s).

<sup>8</sup> The Exchange is not proposing any changes to the current User Fee rates for its other market data

The Exchange lastly proposes to establish a \$20,000 per month Enterprise Fee that will permit a Distributor to purchase a monthly (and optional) Enterprise license to receive the EDGX Options Top Data for distribution to an unlimited number of Professional and Non-Professional Users. The Enterprise Fee is an alternative to Professional and Non-Professional User fees and it is assessed in addition to the Distribution Fee, which the Exchange proposes to make clear in the Fee Schedule. The Enterprise Fee may provide an opportunity to reduce fees. For example, if a Distributor distributes EDGX Options Top to 15,000 Professional Users who each receive EDGX Options Top at \$5.00 per month (as proposed), then that Distributor will pay \$75,000 per month in Professional Users fees. If the Distributor instead were to purchase the proposed Enterprise license, then it would alternatively pay a flat fee of \$20,000 for an unlimited number of Professional and Non-Professional Users. A Distributor must pay a separate Enterprise Fee for each entity that controls the display of EDGX Options Top if it wishes for such Users to be covered by the Enterprise Fee rather than by per User fees.<sup>9</sup> A Distributor that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. Rather, every six months, it must provide the Exchange with a count of the total number of Professional and Non-Professional users of EDGX Options Top.<sup>10</sup> The Exchange notes that the purchase of an Enterprise license is voluntary and a firm may elect to instead use the per User structure and benefit from the proposed per User Fees described above. For example, a firm that does not have a sufficient number of Users to benefit from purchase of the license need not do so.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange

products at this time and Users of any one of the remaining market data products may continue to receive, at no additional charge, access to any or all of the other market data products listed (*i.e.*, except for EDGX Options Top).

<sup>9</sup> For example, if a Distributor (*e.g.*, Refinitiv) that distributes EDGX Options Top to Retail Brokerage Firm A and Retail Brokerage Firm B (which "entities" redistribute BZX Options Top to its respective Users) and wishes to have the Users under each firm covered by an Enterprise license, the Distributor would be subject to two Enterprise Fees.

<sup>10</sup> See Cboe Global Markets north American Data Policies.

and, in particular, the requirements of section 6(b) of the Act.<sup>11</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>12</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes this proposal is consistent with section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.<sup>13</sup> In addition, the Exchange believes that the proposed rule change is consistent with section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.<sup>14</sup> The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>15</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.<sup>16</sup> The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient,

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78f(b)(8).

<sup>14</sup> 15 U.S.C. 78k-1.

<sup>15</sup> 15 U.S.C. 78f(b)(4).

<sup>16</sup> See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 24, 2023), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).



reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. options exchanges also offers similar top-of-book data.<sup>17</sup> Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the EDGX Options Top Feed. Further, the quote and last sale data contained in the EDGX Options Top Feed is identical to the data sent to OPRA for redistribution to the public.<sup>18</sup> Accordingly, Exchange top-of-book data is widely available today from a number of different sources.

Moreover, the EDGX Options Top is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information<sup>19</sup> from OPRA for the same

classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.<sup>20</sup> As such, all proprietary data feeds are purely optional and only those that deem the product to be of sufficient overall value and usefulness would purchase it.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>21</sup> Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than a competitor they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers who may be interested in purchasing only the EDGX Options Top Data Feed.

The Exchange believes the proposed changes to reduce the rates of the current Professional and Non-Professional User fees for EDGX Options Top Feed are reasonable as Distributors will be subject to lower User fees for EDGX Options Top Feed. Distributors who only wish to distribute EDGX Options Top Feed will therefore be subject to lower User fees. Additionally, the User fees continue to be in line with and/or lower than User fees assessed by other exchanges for similar data.<sup>22</sup>

subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

<sup>20</sup> *Id.*

<sup>21</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

<sup>22</sup> See e.g., Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users to cover the usage of PHLX Options (TOPO) Data, TOPO Plus Orders, PHLX Orders and PHLX Depth Data feeds. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-

The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to Distributors who distribute EDGX Options Top. The Exchange also believes continuing to offer EDGX Options Top Data to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more for those Users who are more directly engaged in the markets. The Exchange believes assessing lower User fees for EDGX Options Top as compared to the remaining EDGX Options market data feeds is also equitable and not unfairly discriminatory. Particularly, the EDGX Options Top Feed contains less information than other market data products, including EDGX Options Depth (indeed, the information contained in EDGX Options Top is a subset of the information that is included in EDGX Options Depth). The Exchange believes it is equitable to have pricing based, in part, upon the amount of information contained in each data feed and the value of that information to market participants. Thus, the Exchange believes it's reasonable for EDGX Options Top to have lower User fees than the other EDGX Options market data products because it offers less data than other products. Additionally, the Exchange believes the proposed reduced User fee for EDGX Options Top as compared to the User fees for the remaining EDGX Options market data products is reasonable, equitable and not unfairly discriminatory as the Exchange continues to provide that *Users of any one of EDGX Options Depth, EDGX*

professional users of American Options Top Data, American Options Deep and American Options Complex products. By comparison, the total combined Professional User fee for the Exchange's market data products is significantly lower at \$11 per Professional User (*i.e.*, \$1 per Professional Users of EDGX Options Top, as proposed, and \$10 per Professional User of any of the remaining EDGX Options market data products). The Exchange's combined Non-Professional User Fee at \$1.10 per Non-Professional User (*i.e.*, \$0.10 per Non-Professional User of EDGX Options Top, as proposed, and \$1 per Non-Professional User of any of the remaining EDGX Options market data products) is still in line with, and not a significant departure from, PHLX's and NYSE American's aforementioned Non-Professional User fees.

<sup>17</sup> See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIAX Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and Cboe Data Services, LLC Fees Schedule.

<sup>18</sup> The Exchange notes that it makes available the top-of-book and last sale data that is included in the EDGX Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

<sup>19</sup> "Consolidated Options Information" means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed "equivalent" if both kinds of information are equally accessible on the same terminal or work station. See Limited Liability Company Agreement of Options Price Reporting Authority, LLC ("OPRA Plan"), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which



*Options Auction Feed, EDGX Options Complex Top, EDGX Options Complex Depth, and/or EDGX Options Complex Auction Feed may receive, at no additional charge, access to any or all of the other aforementioned market data products.*

The Exchange next notes it is not required to charge a single User fee to cover all its available data products, but none-the-less has opted to not charge for separate User Fees for EDGX Options data feeds since EDGX Options Top was adopted in January 2018.<sup>23</sup> However, the Exchange now wishes to have separate User fees for EDGX Options Top. The Exchange believes the proposed change is reasonable, equitable and not unfairly discriminatory as all of EDGX Options data products are purely optional. As stated above, the Exchange also believes charging separate User fees is equitable as it allows the Exchange to assess prices based on the amount of information contained in each feed, which can provide an opportunity to assess lower fees for products that contain less information. Particularly, the proposed rule change enables market participants who only want top-of-book and execution data and do not need other types of market data, including depth-of-book, complex order and auction feed data, to purchase such top-of-book and execution data at a lower price. Those who wish to receive more comprehensive data, including the foregoing, may still continue to do so at the current (and higher) price. Additionally, as noted above, the data contained in the EDGX Options Top Feed is a subset of the data included in the EDGX Options Depth Feed. As such, a User that receives EDGX Options Depth Feed would not need to also receive the EDGX Options Top Feed since the EDGX Options Depth Feed is already inclusive of the data contained in the EDGX Options Top Feed. Only those Distributors that deem one or more of the products to be of sufficient overall value and usefulness would purchase them for distribution to Users. Further, Distributors are not required to distribute, and Users are not required to receive, any one particular data product and may choose to receive none, one, or several of the Exchange's market data products. Additionally, the Exchange is not required to provide any fee waiver to Distributors of EDGX Options Top, including for User fees. In fact, another exchange similarly adopted separate fees for different data products that

historically had otherwise been provided under a single fee.<sup>24</sup> The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply uniformly to Distributors.

The proposed Enterprise Fee for EDGX Options Top Feed is equitable and reasonable as the proposed fee could result in a fee reduction for Distributors with a large number of Professional and Non-Professional Users. If a Distributor has a smaller number of Professional Users of EDGX Options Top Data, then it may continue using the per User structure and benefit from the proposed per EDGX Options Top User Fee reductions. By reducing prices for Distributors with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute EDGX Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain Distributors that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count Professional and Non-Professional Users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of Users to benefit from purchase of the license need not do so.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. For example, Top-of-book data is broadly disseminated by competing U.S. options exchanges. In this competitive environment potential Distributors are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes

down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees would apply to all similarly situated Distributors of EDGX Options Top on an equal and non-discriminatory basis. The Exchange believes the differentiated fees for Professional and Non-Professional Users of EDGX Options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to EDGX Options Top Data, or any of the Exchange's data feeds, as described above. As noted, the quote and last sale data contained in the Exchange's EDGX Options Top feed is identical to the data sent to OPRA for redistribution to the public.

Accordingly, Exchange top-of-book data is therefore widely available today from a number of different sources.

Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

<sup>23</sup> See Securities Exchange Act Release No. 82462 (January 8, 2018), 83 FR 1647 (January 12, 2018) (SR-ChoeEDGX-2017-010).

<sup>24</sup> See Securities Exchange Act Release No. 79556 (December 14, 2016), 81 FR 92935 (December 20, 2016) (SR-NASDAQ-2016-167).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>25</sup> and paragraph (f) of Rule 19b-4<sup>26</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2023-033 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CboeEDGX-2023-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CboeEDGX-2023-033 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

Sherry R. Haywood,  
Assistant Secretary.

[FR Doc. 2023-10466 Filed 5-16-23; 8:45 am]

BILLING CODE 8011-01-P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97480; File No. SR-CboeBZX-2023-030]

#### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 28, 2023, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX Options") proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's

website ([http://markets.cboe.com/us/equities/regulation/rule\\_filings/bzx/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its fees Fee Schedule to modify its market data fees for BZX Options Top.<sup>3</sup> Particularly, the Exchange proposes to modify the Professional and Non-Professional User Fees, modify the Enterprise Fee for BZX Options Top and make other clarifying, non-substantive changes.<sup>4</sup>

The Exchange first proposes to reduce the rates for Professional and Non-Professional User fees for BZX Options Top. The Exchange currently charges Internal Distributors and External Distributors that redistribute any of the BZX Options Data Feeds different fees for their Professional Users<sup>5</sup> and Non-Professional Users.<sup>6</sup> The Exchange

<sup>3</sup> BZX Options Top is an uncompressed data feed that offers top of book quotations and execution information based on options orders entered into the System. Uncompressed data is disseminated "as is" in the native format by the Exchange, with no compression.

<sup>4</sup> The Exchange initially filed the proposed fee changes on January 3, 2023 (SR-CboeBZX-2023-001). On March 1, 2023, the Exchange withdrew that filing and submitted SR-CboeBZX-2023-016, which was filed on February 28, 2023. On April 28, 2023, the Exchange withdrew that filing and submitted this filing.

<sup>5</sup> A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.

<sup>6</sup> A "Non-Professional User" of an Exchange Market Data product is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or

Continued

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f).

<sup>27</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

currently assesses a monthly fee for Professional Users of \$30.00 per User and a monthly fee of \$1.00 per Non-Professional User.<sup>7</sup> One User fee allows access to the BZX Options Top Feed and the BZX Options Depth Feed.<sup>8</sup> The Exchange proposes to reduce the rates for the User fees for BZX Options Top. Particularly, the Exchange proposes to reduce the monthly (i) Professional User fee from \$30 per user to \$5 per user and (ii) Non-Professional User fee from \$1.00 per user to \$0.10 per user. The Exchange also proposes to start charging separate User fees for BZX Options Top and BZX Options Depth Feed. The Exchange therefore proposes to eliminate the language under the BZX Options Top table and BZX Options Depth Feed table that states one User fee allows access to the BZX Options Top Feed and the BZX Options Depth Feed.<sup>9</sup>

The Exchange next proposes to increase the current monthly Enterprise Fee. The Enterprise Fee permits a recipient firm (*i.e.*, a Distributor) to purchase a monthly (and optional) Enterprise license to receive the BZX Options Top Feed for distribution to an unlimited number of Professional and Non-Professional Users.<sup>10</sup> The Enterprise Fee is an alternative to Professional and Non-Professional User fees. Like User fees, it is also assessed in addition to the Distribution Fee.<sup>11</sup> Currently, the Exchange assesses an Enterprise Fee of \$3,500 per month for

association, or any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in section 202(a)(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.

<sup>7</sup> Distributors that receive BZX Options Data are required to count every Professional User and Non-Professional User to which they provide the data feed(s).

<sup>8</sup> BZX Options Depth is an uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System.

<sup>9</sup> The Exchange is not proposing any changes to the current User Fee amounts for BZX Options Depth Feed at this time.

<sup>10</sup> The Exchange proposes to amend the description relating to the Enterprise Fees under the BZX Options Top and Depth fee tables to clarify that Distributors are the market participant that would be purchasing the monthly Enterprise license for purposes of distribution to Professional and Non-Professional Users.

<sup>11</sup> The Exchange also proposes to clarify in the descriptions relating to the Enterprise Fees that (i) it is an alternative to “Professional and Non-Professional” User fees and (ii) is in addition to the Distribution Fee, to make clear what fees apply.

BZX Options Top Feed.<sup>12</sup> The Exchange proposes to increase the Enterprise Fee to \$20,000 per month. For example, if a Distributor distributes BZX Options Top to 15,000 Professional Users who each receive BZX Options Top at \$5.00 per month (as proposed), then that Distributor will pay \$75,000 per month in Professional Users fees. Under the proposed Enterprise Fee, it will pay a flat fee of \$20,000 for an unlimited number of Professional and Non-Professional Users. A Distributor must pay a separate Enterprise Fee for each entity that controls the display of BZX Options Top if it wishes for such User to be covered by the Enterprise Fee rather than by per User fees.<sup>13</sup> A Distributor that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. However, every six months, it must provide the Exchange with a count of the total number of Professional and Non-Professional Users of BZX Options Top.<sup>14</sup>

The Exchange lastly proposes to make clarifying, non-substantive changes. First, the Exchange proposes to add references to “Depth” in the description of the Distribution Fees and Enterprise Fee under the BZX Options Depth Feed table to clarify which data feed such fees currently applies to, thereby alleviating potential confusion. The Exchange also proposes to replace references to “Recipient firm” with “Distributors” to more accurately reflect the type of market participants the fees are applicable to, thereby alleviating potential confusion. The Exchange lastly proposes to add a reference to “Professional and Non-Professional” Users in the description of the BZX Options Depth Enterprise Fee.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange

<sup>12</sup> The Exchange also offers a separate Enterprise license for the BZX Options Depth Feed, also priced at \$3,500 per month. If a Distributor wishes to purchase an Enterprise license for each of BZX Options Top Feed and BZX Options Depth Feed, it would be subject to a total of \$7,000 per month (\$3,500 for each Enterprise license). To date, no market participant has purchased an Enterprise license for either feed.

<sup>13</sup> For example, if a Distributor (*e.g.*, Refinitiv) that distributes BZX Options Top to Retail Brokerage Firm A and Retail Brokerage Firm B (which “entities” redistribute BZX Options Top to its respective Users) and wishes to have the Users under each entity covered by an Enterprise license, the Distributor would be subject to two Enterprise Fees.

<sup>14</sup> See Cboe Global Markets north American Data Policies.

and, in particular, the requirements of section 6(b) of the Act.<sup>15</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>16</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes this proposal is consistent with section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.<sup>17</sup> In addition, the Exchange believes that the proposed rule change is consistent with section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.<sup>18</sup> The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>19</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.<sup>20</sup> The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously

<sup>15</sup> 15 U.S.C. 78f(b).

<sup>16</sup> 15 U.S.C. 78f(b)(5).

<sup>17</sup> 15 U.S.C. 78f(b)(8).

<sup>18</sup> 15 U.S.C. 78k-1.

<sup>19</sup> 15 U.S.C. 78f(b)(4).

<sup>20</sup> See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 24, 2023), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. options exchanges also offers similar top-of-book data.<sup>21</sup> Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the BZX Options Top Feed. Further, the quote and last sale data contained in the BZX Options Top Feed is identical to the data sent to OPRA for redistribution to the public.<sup>22</sup> Accordingly, Exchange top-of-book data is widely available today from a number of different sources.

Moreover, the BZX Options Top is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information<sup>23</sup> from OPRA for the same

classes or series of options that are included in the proprietary data feed, and proprietary data feeds cannot be used to meet that particular requirement.<sup>24</sup> As such, all proprietary data feeds are purely optional and only those that deem the product to be of sufficient overall value and usefulness would purchase it.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>25</sup> Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than the competition they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers who may be interested in purchasing only the BZX Options Top Data Feed.

The Exchange believes the proposed changes to reduce the rates of the current Professional and Non-Professional User fees for BZX Options Top Data are reasonable as Distributors will be subject to lower User fees for the BZX Options Top Feed. Distributors who only wish to distribute BZX Options Top Feed will therefore be subject to lower User fees. Additionally, the User fees continue to be in line with and/or lower than User fees assessed by other exchanges for similar data.<sup>26</sup>

subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

<sup>24</sup> *Id.*

<sup>25</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

<sup>26</sup> See e.g., Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users to cover the usage of PHLX Options (TOPO) Data, TOPO Plus Orders, PHLX Orders and PHLX Depth Data feeds. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-

The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to Distributors who distribute BZX Options Top. The Exchange also believes continuing to offer BZX Options Top Data to Non-Professional Users at a lower cost than Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange believes assessing lower User fees for BZX Options Top as compared to BZX Options Depth is also equitable and not unfairly discriminatory. Particularly, the BZX Options Top Feed contains less information than BZX Options Depth (indeed, the information contained in BZX Options Top is a subset of the information that is included in BZX Options Depth). The Exchange believes it is equitable to have pricing based, in part, upon the amount of information contained in each data feed and the value of that information to market participants. Thus, the Exchange believes it's reasonable for BZX Options Top to have lower User fees than BZX Options Depth because it offers less data than BZX Options Depth.

The Exchange next notes it is not required to charge a single User fee to cover all its available data products, but none-the-less has not charged separate User Fees for both BZX Options Top and BZX Options Depth since BZX Options Top was adopted in March 2018.<sup>27</sup> However, the Exchange no longer wishes to continue to have a single fee. The Exchange believes the

professional users of American Options Top Data, American Options Deep and American Options Complex products. By comparison, the total combined Professional User fee for the Exchange's market data products is still lower at \$35 per Professional User (*i.e.*, \$5 per Professional Users of BZX Options Top, as proposed, and \$30 per Professional User of BZX Options Depth). The Exchange's combined Non-Professional User Fee at \$1.10 per Non-Professional User (*i.e.*, \$0.10 per Non-Professional User of BZX Options Top, as proposed, and \$1 per Non-Professional User of BZX Options Depth) is still in line with, and not a significant departure from, PHLX's and NYSE American's aforementioned Non-Professional User fees.

<sup>27</sup> See Securities Exchange Act Release No. 82874 (March 14, 2018), 83 FR 12210 (March 20, 2018) (SR-CboeBZX-2018-017).

<sup>21</sup> See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIAX Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and Cboe Data Services, LLC Fees Schedule.

<sup>22</sup> The Exchange notes that it makes available the top-of-book and last sale data that is included in the BZX Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

<sup>23</sup> "Consolidated Options Information" means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed "equivalent" if both kinds of information are equally accessible on the same terminal or work station. See Limited Liability Company Agreement of Options Price Reporting Authority, LLC ("OPRA Plan"), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which

proposed change is reasonable, equitable and not unfairly discriminatory as the Top and Book Depth Data Feeds are purely optional. As stated above, the Exchange also believes charging separate User fees is equitable as it allows the Exchange to assess prices based on the amount of information contained in each feed, which can provide an opportunity to assess lower fees for products that contain less information. Particularly, the proposed rule change reduces fees for market participants who only want top-of-book and execution data and do not need depth-of-book data. Those who wish to receive more comprehensive depth-of-book information may still continue to do so at the current (and higher) price. Additionally, as noted above, the data contained in the BZX Options Top Feed is a subset of the data included in the BZX Options Depth Feed. As such, a User that receives BZX Options Depth Feed would not need to also receive the BZX Options Top Feed since the BZX Options Depth Feed is already inclusive of the data contained in the BZX Options Top Feed. Moreover, only those Distributors that deem the products to be of sufficient overall value and usefulness would purchase either or both of them for purposes of distribution to Users. Distributors are not required to distribute, and Users are not required to receive, any one particular data product and indeed may choose to receive none, one, or several of the Exchange's market data products. Additionally, the Exchange is not required to provide any fee waiver to Distributors of BZX Options Top, including for User Fees. In fact, another exchange similarly adopted separate fees for different data products that historically had otherwise been provided under a single fee.<sup>28</sup> The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply uniformly to Distributors.

The proposed increased Enterprise Fee for BZX Options Top Feed is equitable and reasonable as the proposed fee could still result in a fee reduction for Distributors with a large number of Professional and Non-Professional Users. If a Distributor has a smaller number of Professional Users of BZX Options Top, then it may continue using the per User structure and benefit from the proposed per BZX Options Top User Fee reductions. By reducing prices Distributors with a large number of Professional and Non-Professional

Users, the Exchange believes that more firms may choose to receive and to distribute BZX Options Top Data, thereby expanding the distribution of this market data for the benefit of investors. The Exchange notes that currently no Distributors have purchased an Enterprise license. The Exchange believes however, that the proposed lower User fees for BZX Options Top may incentivize additional External Distributors to distribute BZX Options Top and enlist additional Users. As a Distributor's User base grows, it may make sense for a Distributor to purchase the alternative Enterprise license to cap its fees. In connection with this potential increase in Users, the Exchange believes it is therefore also reasonable to increase the current amount of the Enterprise Fee. That said, the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of Users to benefit from the purchase of the Enterprise license need not do so.

The Exchange further believes that the Enterprise Fee, even as amended, is reasonable because it simplifies reporting for certain Distributors that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee do have to report the number of Users on a monthly basis as they currently do, but rather only have to count authorized users every six months, which is a significant reduction in administrative burden.

The Exchange lastly believes the proposed non-substantive clarifying changes will alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. For example, Top-of-book data is broadly disseminated by competing U.S. options exchanges. In this competitive environment potential Distributors are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes

down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees would apply to all similarly situated Distributors of BZX Options Top on an equal and non-discriminatory basis. The Exchange believes the differentiated fees for Professional and Non-Professional Users of BZX Options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more for those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to BZX Options Top, or any of the Exchange's data feeds, as described above. Also as described above, there are numerous substitute products offered by other national securities exchanges, as well as OPRA. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)

<sup>28</sup> See Securities Exchange Act Release No. 79556 (December 14, 2016), 81 FR 92935 (December 20, 2016) (SR-NASDAQ-2016-167).

of the Act<sup>29</sup> and paragraph (f) of Rule 19b-4<sup>30</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBZX-2023-030 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CboeBZX-2023-030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CboeBZX-2023-030 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>31</sup>

Sherry R. Haywood,  
Assistant Secretary.

[FR Doc. 2023-10465 Filed 5-16-23; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97486; File No. SR-C2-2023-012]

### Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Its Fees Schedule

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 28, 2023, Cboe C2 Exchange, Inc. ("Exchange" or "C2") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the "Exchange" or "C2") proposes to update its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/ctwo/](http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

<sup>31</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the Cboe Data Services, LLC ("CDS") section of its Fees Schedule.<sup>3</sup> Particularly, the Exchange proposes to (i) reformat the section of its Fees Schedule pertaining to market data fees, (ii) harmonize various market data related definitions to align with the definitions used by the Exchange's affiliates and (iii) modify its fees relating to the distribution of the BBO data feed.<sup>4</sup>

###### Reformatting

The Exchange first proposes to eliminate references to CDS and instead refer to the "Exchange", as well as rename the section currently titled "Cboe Data Services, LLC Fees" to "Market Data Fees" to align with the terminology and heading of its affiliates, BZX Options and EDGX Options. The Exchange notes that no substantive changes are being made with the

<sup>3</sup> The Exchange initially filed the proposed fee changes on January 3, 2023 (SR-C2-2023-001). On March 1, 2023, the Exchange withdrew that filing and replaced it with SR-C2-2023-007, which was submitted on February 28, 2023. On April 28, 2023 the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> The BBO Data Feed is a real-time data feed that includes the following information: (i) outstanding quotes and standing orders at the best available price level on each side of the market; (ii) executed trades time, size, and price; (iii) totals of customer versus non-customer contracts at the best bid and offer ("BBO"); (iv) all-or-none contingency orders priced better than or equal to the BBO; (v) expected opening price and expected opening size; (vi) end-of-day summaries by product, including open, high, low, and closing price during the trading session; (vii) recap messages any time there is a change in the open, high, low or last sale price of a listed option; (viii) COB information; and (ix) product IDs and codes for all listed options contracts. The quote and last sale data contained in the BBO data feed is identical to the data sent to the Options Price Reporting Authority ("OPRA") for redistribution to the public.

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>30</sup> 17 CFR 240.19b-4(f).

elimination of the references to CDS fees. Rather, the proposed change more accurately reflects the Exchange's role as it relates to its market data products as CDS is merely an affiliate that is the Cboe contracting entity for all U.S. equities and options market data products, but the data products themselves are made available by the Exchange. The Exchange also proposes to reformat and reorganize the layout of the fees under the Cboe Data Services, LLC ("CDS") section of the Fees Schedule to align with formatting of the corresponding section in the fee schedules of the Exchange's affiliated options exchanges, Cboe BZX Exchange, Inc. ("BZX Options") and Cboe EDGX Exchange, Inc. ("EDGX Options"),

including adding a new "Definitions" section under the CDS Fees (or as proposed, the Market Data Fees) section. As part of the reformatting, the Exchange notes that it is moving up the "Trial Usage" description from the end of the Fees Schedule towards the top (no changes are being made to the language under this section).

#### Definitions

In order to provide consistent rules and terminology amongst the Exchange and its affiliated options exchanges, Cboe Options Exchange, Inc. ("Cboe Options"), Cboe BZX Exchange, Inc. ("BZX Options") and Cboe EDGX Exchange, Inc. ("EDGX Options") (collectively, "Affiliates"), the Exchange

is proposing to amend various definitions and product names to harmonize with such terms used by its affiliates BZX Options and EDGX Options, as well as definitions used in Cboe's Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies.<sup>5</sup> As such, the proposed rule change deletes a defined term, adds certain defined terms, relocates certain terms and makes certain non-substantive changes to existing definitions, as further described in the table below. The proposed rule change makes these changes throughout the market data fee language to conform to the proposed defined terms and the Exchange uses the proposed updated terms herein.

Defined term	Provision	Current location	Description of change
Customer .....	A "Customer" is any person, company or other entity that, pursuant to a market data agreement with CDS, is entitled to receive data, either directly from CDS or through an authorized redistributor (i.e., a Customer or an extranet service provider), whether that data is distributed externally or used internally. An entity or person that receives BBO data from a Customer through a Display Only Service is not a "Customer" unless it has a market data agreement in place with CDS".	Section I of the Cboe Data Services, LLC ("CDS") Section of the Fees Schedule.	Deletes defined term to align terms with BZX Options and EDGX Options. The concept of "Customer" is also better captured through the proposed new term "Distributor." Eliminates language that specifies that a person, company, entity that does not have a market data agreement in place with CDS is not considered a "Customer" since the Exchange is not proposing to use that term in the Fees Schedule with respect to market data fees and does not believe it's necessary to clarify this point in the Fees Schedule. <sup>6</sup> Neither BZX Options nor EDGX Options refer to market data agreements in their respective Fees Schedules.
Distributor .....	A Distributor of an Exchange Market Data product is any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.	N/A .....	Codifies definition of "Distributor" under new "Definitions" section of the C2 Options Fees Schedule. An Exchange Market Data Product refers to any Data Product set forth in the Market Data Fees section of the Exchange's Fees Schedule. Entities, not individual persons, distribute market data. Definition is identical to the definition used by BZX Options and EDGX Options and substantially similar to the language in the first sentence of the definition of "Customer" in the Fees Schedule.
Internal Distributor .....	An Internal Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.	N/A .....	Codifies definition of "Internal Distributor" under new "Definitions" section of the C2 Options Fees Schedule. Definition is identical to the definition used by BZX Options and EDGX Options.
External Distributor .....	An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.	N/A .....	Codifies definition of "External Distributor" under new "Definitions" section of the C2 Options Fees Schedule. Definition is identical to the definition used by BZX Options and EDGX Options.
User .....	A User of an Exchange Market Data product is a natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data.	N/A .....	Codifies definition of "User" under new "Definitions" section of the C2 Options Fees Schedule. Definition is identical to the one used by BZX Options and EDGX Options.

<sup>5</sup> Cboe Options will be submitting a similar filing to harmonize its definitions and products names to align with those of BZX Options and EDGX Options as well.

<sup>6</sup> All Distributors of C2 Options proprietary market data products are subject to Cboe Global Markets North American Data Policies and must

still sign the Cboe Global Markets Global Data Agreement.



Defined term	Provision	Current location	Description of change
Non-Professional User .....	A “Non-Professional User” is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an “investment adviser” as that term is defined in Section 201(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.	Section III .....	Relocates definition under new “Definitions” section of the C2 Options Fees Schedule and updates the rule reference to “section 201(11)” of the Investment Advisers Act of 1940 to “section 202(a)(11)”.
Professional User .....	A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.	Section III .....	Relocates definition under new “Definitions” section of the C2 Options Fees Schedule and eliminates reference to “natural person” recipient of “Data” to align with the “Professional User” definition used by BZX Options and EDGX Options, as well as Cboe’s market data policies and agreements.
Display Only Service .....	A “Display Only Service” allows a natural person end-user to view and manipulate data using the Distributor’s computerized service, but not to save, copy, export or transfer the data or any results of the manipulation to any other computer hardware, software or media, except for printing it to paper or other non-magnetic media.	Section I .....	Relocates definition under new “Definitions” section of the C2 Options Fees Schedule. Replaces reference to “Customer” with “Distributor”.
Device .....	A “Device” means any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form.	Section I under “User Fees”.	Relocates definition under new “Definitions” section of the C2 Options Fees Schedule.

The Exchange also proposes to rename the following market data products and fees and use the proposed names herein, in order to align with the naming convention used by the Exchange’s affiliates, BZX Options, EDGX Options and Cboe Options, as applicable for similar data products and fees.<sup>7</sup>

Current name	Proposed name
BBO Data Feed .....	C2 Options Top.
Book Depth Data Feed ...	C2 Options Depth.
Complex Order Book (COB) Data Feed.	C2 Complex Order Book (COB).
Port Fee .....	Direct Data Access Fee.

The Exchange believes the proposed changes to eliminate, modify and adopt the terms discussed above will add transparency to the Fees Schedule and will protect investors, as the changes provide more clarity within the rule and more harmonized rule language across the Fees Schedules of the Cboe affiliated options exchanges, as well as definitions used in Cboe’s Cboe Global Markets Global Data Agreement and

Cboe Global Markets North American Data Policies. Further, the Exchange notes that the above-described changes relating to definitions are non-substantive changes or provide additional detail in the rule regarding current market participants that purchase or use the Exchange’s market data products. None of these differences impact the manner in which any of the terms and corresponding fees apply, including how the Exchange would have otherwise characterized a Distributor or User (Professional or Non-Professional) as such definitions are more consistent with the definitions already used in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, to which all firms receiving C2 Options market data must adhere to.

#### C2 Options Top Fee Changes

The Exchange first proposes to modify its current User Fees. The Exchange currently charges all Distributors a Distribution Fee of \$2,500 per month (which applies for Internal and/or External Distribution). Additionally, the Exchange currently assesses a “User Fee” of \$50 per month per Device or user ID for use of the data in the C2

Options Top Data Feed by “Display Only Service” users. The current User fee is payable only for “external” Display Only Service users who receive C2 Options Top and are not employees or natural person independent contractors of the Distributor, the Distributor’s affiliates or an authorized service facilitator.<sup>8</sup> Internal Distributors

<sup>8</sup> Pursuant to the Cboe Global Markets North American Data Policies, Distributors must report the number of authorized external devices that receive C2 Options Top data during a calendar month within 15 days after such month in the manner and format specified by the Exchange from time to time to determine applicable fees. In connection with a Distributor’s distribution of the market data product, Distributors are required to report all Professional and Non-Professional Users in accordance with the following: Distributor should count as one User each unique User that the Distributor has entitled to have access to the market data product. However, where a device is dedicated specifically to a single individual, the Distributor should count only the individual and need not count the device. Distributor should identify and report each unique User. If a User uses the same unique method to gain access to the market data product, the Distributor should count that as one User. However, if a unique User uses multiple methods to gain access to the market data product (e.g., a single User has multiple passwords and user identifications), the Distributor should report all of those methods as an individual User. Distributors should report each unique individual person who receives access through multiple devices as one

Continued

<sup>7</sup> See BZX Options Exchange Fees Schedule, Market Data Fees and EDGX Options Exchange Fees Schedule, Market Data Fees. See also Cboe Data Services, LLC Fees Schedule, Section IV. System Fees.



may currently distribute C2 Options Top Data to an unlimited number of internal Users and Devices within the Distributor at no further cost (aside from the above-mentioned monthly Distribution Fee). The Exchange proposes to eliminate the current C2 Options Top User fee and in its place adopt Professional and Non-Professional User fees for C2 Options Top that would apply to both Internal and External Distributors for all Professional and Non-Professional Users. Particularly, the Exchange proposes to charge C2 Options Top Distributors a monthly fee of \$5.00 per Professional User and a monthly fee of \$0.10 per Non-Professional User.<sup>9</sup>

The Exchange lastly proposes to establish a \$10,000 per month Enterprise Fee that will permit a Distributor to purchase a monthly (and optional) Enterprise license to receive the C2 Options Top Data for distribution to an unlimited number of Professional and Non-Professional Users. The Enterprise Fee is an alternative to Professional and Non-Professional User fees and is assessed in addition to the Distribution Fee, which the Exchange proposes to make clear in the Fee Schedule. The Enterprise Fee may provide an opportunity to reduce fees. For example, if a Distributor has 10,000 Professional Users who each receive C2 Options Top at \$5.00 per month (as proposed), then that Distributor will pay \$50,000 per month in Professional Users fees. If the Distributor instead were to purchase the proposed Enterprise license, it would alternatively pay a flat fee of \$10,000 for an unlimited number of Professional and Non-Professional Users. A Distributor must pay a separate Enterprise Fee for each entity that controls the display of C2 Options Top if it wishes for such Users to be covered by an Enterprise Fee rather than by per User fees.<sup>10</sup> A Distributor that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. Rather, every six months, the Distributor must provide the Exchange with a count of the total number of Professional and Non-Professional Users

of C2 Options Top.<sup>11</sup> The Exchange notes that the purchase of an Enterprise license is voluntary, and a firm may elect to instead use the per User structure and benefit from the proposed per User Fees described above. For example, a firm that does not have a sufficient number of Users to benefit from purchase of the license need not do so.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.<sup>12</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>13</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes this proposal is consistent with section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.<sup>14</sup> In addition, the Exchange believes that the proposed rule change is consistent with section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.<sup>15</sup> The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>16</sup> which

requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.<sup>17</sup> The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange’s affiliates, and each of the Exchange’s affiliated U.S. options exchanges also offers similar top-of-book data.<sup>18</sup> Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the C2 Options Top Feed. Further, the quote and last sale data contained in the C2 Options Data Feed is identical to the data sent to OPRA for redistribution to the public.<sup>19</sup> Accordingly, Exchange top-of-book data is widely available today from a number of different sources.

Moreover, the C2 Options Top Data Feed is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the

User so long as each device is dedicated specifically to that individual. If a Distributor entitles one or more individuals to use the same device, the Distributor should include only the individuals, and not the device, in the count.

<sup>9</sup> Distributors that receive C2 Options Top Data will be required to count every Professional User and Non-Professional User to which they provide the data feed.

<sup>10</sup> For example, if a Distributor (e.g., Refinitiv) that distributes C2 Options Top to Retail Brokerage Firm A and Retail Brokerage Firm B (which “entities” redistribute BZX Options Top to its respective Users) and wishes to have the Users under each firm covered by an Enterprise license, the Distributor would be subject to two Enterprise Fees.

<sup>11</sup> See Cboe Global Markets north American Data Policies.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78f(b)(8).

<sup>15</sup> 15 U.S.C. 78k-1.

<sup>16</sup> 15 U.S.C. 78f(b)(4).

<sup>17</sup> See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 24, 2023), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

<sup>18</sup> See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIAX Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and Cboe Data Services, LLC Fees Schedule.

<sup>19</sup> The Exchange notes that it makes available the BBO data and last sale data that is included in the C2 Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information<sup>20</sup> from OPRA for the same classes or series of options that are included in the proprietary data feed (including for exclusively listed products), and proprietary data feeds cannot be used to meet that particular requirement.<sup>21</sup> As such, all proprietary data feeds are purely optional and only those that deem the product to be of sufficient overall value and usefulness would purchase it.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>22</sup> Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange’s data product as more or less attractive than a competitor they can and do switch between similar products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of C2 Options Top Data.

The Exchange believes the proposed changes to adopt new Professional and Non-Professional User fees are

reasonable as the User fees continue to be in line with User fees assessed by other exchanges for similar data.<sup>23</sup> Moreover, Display Only Service Users will now be subject to lower fees as the Exchange proposes to significantly reduce the monthly User fees from \$50 per Device or User ID for Display Only Service User to \$5.00 per Professional User or \$0.10 per Non-Professional User. Although External Distributors are currently only subject to a User fee for external Users that are Display Only Service Users, the proposed fee for all external Users (which are likely to be Non-Professional Users) is significantly lower (*i.e.*, \$0.10 per Non-Professional User) than the current \$50 User fee. Moreover, the proposed fee structure of differentiated Professional and Non-Professional fees that are paid by both Internal and External Distributors for all Users, not just Display Only Service users, has long been used by other exchanges, including the Exchange, for their proprietary data products, and by the OPRA plan in order to reduce the price of data to retail investors and make it more broadly available.<sup>24</sup> The Exchange also believes offering C2 Options Top to Non-Professional Users at a rate lower than the rate for

Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to Distributors for their Professional and Non-professional Users.

Although Internal Distributors do not currently pay any User fees for C2 Options Top, the Exchange believes its reasonable, equitable and not unfairly discriminatory to start assessing User fees, as internal and external users will be treated the same. Additionally, other exchanges also assess User fees for internal users of similar data, including the Exchange’s affiliates.<sup>25</sup> Moreover, the proposed rates Internal Distributors will be subject to for User fees are in line with User fees assessed by other exchanges for similar data.<sup>26</sup> The Exchange believes the proposed monthly User fees for which Internal Distributors of C2 Options Top will now be subject to are equitably allocated because they would be charged on an equal basis for all internal Users that receive C2 Options Top.

The proposed Enterprise Fee for C2 Options Top Feed is equitable and reasonable as the proposed fee could result in a fee reduction for Distributors with a large number of Professional and Non-Professional Users. If a Distributor has a smaller number of Professional Users of C2 Options Top Data, then it may continue using the per User structure and benefit from the proposed per C2 Options Top User Fee reductions. By reducing prices for Distributors with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute C2 Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large

<sup>20</sup> “Consolidated Options Information” means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed “equivalent” if both kinds of information are equally accessible on the same terminal or work station. *See* Limited Liability Company Agreement of Options Price Reporting Authority, LLC (“OPRA Plan”), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange’s Data Order Form (used for requesting the Exchange’s market data products) requires confirmation that the requesting market participant receives data from OPRA.

<sup>21</sup> *Id.*

<sup>22</sup> *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>23</sup> *See e.g.*, Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users to cover the usage of PHLX Options (TOPO) Data, TOPO Plus Orders, PHLX Orders and PHLX Depth Data feeds. *See also* NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-professional users of American Options Top Data, American Options Deep and American Options Complex products. By comparison, the total Professional User fee for C2 Options Top and C2 Options COB is in line, and in fact lower than the above Professional User fee at \$30 per Professional User (*i.e.*, \$5 per Professional Users of C2 Options Top, as proposed, and \$25 per Professional User of C2 Options COB). The Exchange’s combined Non-Professional User Fee at \$0.10 per Non-Professional User (*i.e.*, \$0.30 per Non-Professional User of C2 Options Top, as proposed, and \$0 per Non-Professional User of C2 Options COB) is lower than PHLX’s and NYSE American’s aforementioned Non-Professional User fees. C2 Options Depth is not included in the above comparison because there are no User fees based on Professional or Non-Professional classification, but rather a \$50 per month, more Device or User ID fee for Display Only Service users only. Further there are no fees for any internal Users.

<sup>24</sup> *See e.g.*, Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR–NYSE–2008–131) (establishing the \$15 Non-Professional User Fee (Per User) for NYSE OpenBook); *See e.g.*, Securities Exchange Act Release No. 67589 (August 2, 2012), 77 FR 47459 (August 8, 2012) (revising OPRA’s definition of the term “Nonprofessional”); and *See* Securities Exchange Act Release No. 70683 (October 15, 2013), 78 FR 62798 (October 22, 2013) (SR–CBOE–2013–087) (establishing Professional and Non-Professional User fees for Cboe Options COB Data Feed).

<sup>25</sup> *See* BZX Options Fees Schedule, Market Data Fees and EDGX Options Fees Schedule, Market Data Fees. *See also* Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees).

<sup>26</sup> *See supra* note 23.

numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count Professional and Non-Professional Users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of Users to benefit from purchase of the license need not do so.

The Exchange lastly believes the proposed changes relating to the defined terms and terminology will provide additional specificity and clarity, while also harmonizing the various definition with that of its affiliates and providing more consistency with definitions used in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies. Doing so would ensure consistent terms amongst the Exchange and its affiliates, as well as the Exchange's data agreements and policies, thereby reducing the potential for confusion amongst market data subscribers of the Exchange's and its affiliates' market data products. Additionally, the proposed new terms are identical to the terms already used by the Exchange's affiliates BZX Options and EDGX Options. Similarly, the Exchange believes the proposal to reformat the fees will provide for a more streamlined fees schedule, thereby reducing potential confusion. Accordingly, the Exchange believes the proposed changes remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. For example, Top-of-book data is broadly disseminated by competing U.S. options exchanges. In this competitive environment potential Distributors are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek

to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees would apply to all similarly situated Distributors of C2 Options Top on an equal and non-discriminatory basis. The Exchange believes the differentiated fees for Professional and Non-Professional Users of C2 Options Top is appropriate given Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to C2 Options Top Data, or any of the Exchange's data feeds, as described above. As noted, the quote and last sale data contained in the Exchange's C2 Option Top feed is identical to the data sent to OPRA for redistribution to the public. Accordingly, Exchange top-of-book data is widely available today from a number of different sources.

Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that Users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>27</sup> and paragraph (f) of Rule 19b-4<sup>28</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-C2-2023-012 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-C2-2023-012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public

<sup>27</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>28</sup> 17 CFR 240.19b-4(f).

Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-C2-2023-012 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

[FR Doc. 2023-10470 Filed 5-16-23; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97484; File No. SR-OCC-2023-004]

### Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation To Amend and Enhance the Options Clearing Corporation's Model Risk Management Policy

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 27, 2023, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would amend and enhance OCC's Model Risk Management Policy. The Model Risk Management Policy is included as confidential Exhibit 5 to File Number

SR-OCC-2023-004. The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules. All terms with initial capitalization that are not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (1) Purpose

This proposed rule change would make certain changes to OCC's Model Risk Management Policy ("MRM Policy" or "Policy") to enhance the manner in which OCC manages the risk models and methodologies used in connection with OCC's business. OCC's use of risk models exposes OCC to model risk. Model risk is the potential for adverse consequences from decisions based on incorrect or misused model outputs. For example, a model that is not managed properly could potentially cause OCC to over-collect or under-collect the appropriate amount of collateral to cover credit risk posed by Clearing Members. OCC notes that the MRM Policy is part of a broader framework regarding model risk management that is designed to further the appropriate design, validation, and operation of OCC's Risk Models.<sup>3</sup>

The MRM Policy is designed to outline OCC's framework for managing model risk and to define the roles and responsibilities throughout the risk model and methodology lifecycle.<sup>4</sup> As detailed further below, the proposed changes to the MRM Policy primarily include amendments designed to: (1) more comprehensively address risk

methodologies rather than just the underlying risk models; (2) revise the roles and responsibilities of various individuals, groups, and departments with respect to OCC's managing of model risk; (3) reflect certain non-substantive changes, such as renaming certain policies and procedures; and (4) add a description of certain "Risk Applications" and "User Developed Applications" used by OCC.

#### Risk Methodologies

OCC proposes to modify the MRM Policy to more directly contemplate "Risk Methodologies" rather than just "Risk Models." As currently defined in the MRM Policy, a Risk Model refers to any quantitative method or approach that applies statistical, economic, financial, or mathematical theories, techniques, and/or assumptions to process inputs into quantitative estimates, forecasts, or projections and can also be a quantitative method with inputs that are qualitative or based on business judgment. As also currently defined in the MRM Policy, a Methodology refers to a collection of Risk Models that are used to estimate financial risk exposures.

OCC proposes to specify in the MRM Policy that Risk Models are integrated into "Risk Methodologies" to broaden and align OCC's internal model risk policies and procedures by the adoption of the more holistic and comprehensive Risk Methodologies framework consisting of a collection of components, related inputs and outputs, and potentially other tools and applications, as explained further below. Specifically, OCC proposes to replace the definition of Methodology with a definition of a "Risk Methodology," providing that a Risk Methodology is a collection of Risk Models and related inputs and outputs, which are used to estimate or compute a distinct aspect of OCC's credit (*i.e.*, Clearing Fund and margin) and liquidity resources.<sup>5</sup> The purpose of the expanding the definition in this way is to facilitate a more holistic view of the

<sup>5</sup> Under OCC's current MRM Policy, Risk Models are further defined in specific contexts whereby the MRM Policy states that Risk Models are "credit risk models (*i.e.*, Clearing Fund), and margin system and related models (*i.e.*, STANS), and liquidity risk models." As part of the broader shift in this proposed rule change from a focus on individual Risk Models to Risk Methodologies, OCC proposes to incorporate these contexts into the definition of Risk Methodologies, providing that Risk Methodologies "are used to estimate or compute a distinct aspect of OCC's credit (*i.e.*, Clearing Fund and margin) and liquidity resources." The proposed new definition of Risk Methodologies would capture all existing Risk Models that address OCC's credit, margin and liquidity resources.

<sup>29</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> For example, OCC's Margin Policy is also part of OCC's framework regarding model risk management in that it is designed to be consistent with the requirement in Rule 17Ad 22(e)(6)(vii) that OCC's policies and procedures provide for a risk-based margin system that requires a margin model validation not less than annually. See 17 CFR 240.17Ad-22(e)(6)(vii).

<sup>4</sup> The Risk Methodology and Risk Model lifecycle generally includes the development, implementation, monitoring, and independent validation of Risk Methodologies and Risk Models.

relevant processes and calculations, as described in more detail below.

A Risk Methodology is therefore broader than a particular Risk Model because a Risk Methodology may include multiple constituent Risk Models, as well as any other inputs or outputs that may not be part of any one particular constituent Risk Model but that nonetheless contribute to the overarching Risk Methodology.<sup>6</sup> Because Risk Models typically do not operate in isolation, but rather as part of a broader Risk Methodology, OCC believes that expanding the MRM Policy to more comprehensively focus on Risk Methodologies would promote a more sound risk management framework, consistent with Rule 17Ad–22(e)(3).<sup>7</sup> The proposed definition of Risk Methodology is designed to capture each of the constituent Risk Models of which the Risk Methodology is comprised as well as any other inputs or outputs that might be part of how OCC manages OCC's credit and liquidity resources. OCC believes that the proposed definition of Risk Methodology therefore takes a more holistic view toward the processes and calculations by which OCC manages risks arising in connection with the use of a Risk Model.

Accordingly, OCC proposes to modify references to Risk Models in the MRM Policy to instead refer to Risk Methodologies in describing the manner in which OCC governs model risk and in describing the roles and responsibilities of various OCC groups and departments under the Policy.<sup>8</sup> For example, rather than specifying that the design, theory, and logic of each Risk Model used by OCC shall take into consideration published literature and industry best practice, where it is available, the revised MRM Policy would provide that the design, theory, and logic of each Risk Methodology used by OCC will take into

consideration published literature and industry best practice, where it is available. OCC notes that this proposed change to broaden the scope from Risk Models to Risk Methodologies would not modify OCC's processes with respect to any individual Risk Model. That is, OCC would continue to perform the same review of each individual Risk Model as it does today, but would now include a more comprehensive consideration of each Risk Model as part of a Risk Methodology as well as any calculations or inputs that may contribute to a Risk Methodology but that may not necessarily be part of a particular Risk Model.

#### Roles and Responsibilities of OCC Departments

OCC proposes to modify the descriptions of the roles and responsibilities of various OCC departments and groups that are referenced in the MRM Policy to account for the broadened scope of the MRM Policy to focus on Risk Methodologies rather than individual Risk Models. For example, under the current Policy, OCC's Quantitative Risk Management ("QRM") department is responsible for, among other things, monitoring the use and performance of Risk Models according to relevant procedures, maintaining risk tolerances and associated key risk indicators to measure and monitor risk models. Financial Risk Management ("FRM") is the parent department of which QRM is a part.<sup>9</sup> OCC proposes to modify the allocation of responsibility to instead provide that OCC's FRM department is responsible for the tasks currently performed by QRM, such as, among other things, monitoring the use and performance of Risk Methodologies according to relevant procedures and maintaining risk tolerances and associated key risk indicators to measure and monitor risk associated with Risk Methodologies.<sup>10</sup> While QRM

has, and will continue to have, primary responsibility for individual Risk Models, OCC proposes to change the references from QRM to FRM to encompass the responsibilities of other departments within FRM that may have responsibility for an input or output that is not necessarily part of a particular Risk Model, but which is part of a Risk Methodology.<sup>11</sup> The particular responsibilities of each department within FRM depend on the particular Risk Methodology and the constituent Risk Models and any additional inputs or outputs, but all groups within FRM would be subject to the Policy.

In addition, OCC proposes to set forth the responsibilities of Model Risk Management ("MRM") under the Policy with respect to Risk Methodologies. For example, MRM is currently responsible under the MRM Policy for, among other things, validating all Risk Models prior to implementation and evaluating the performance of each Risk Model by performing independent model validations, in each case in accordance with relevant procedures. As proposed, the MRM Policy would instead provide that MRM is responsible for, among other things, validating all Risk Models and Methodologies (including any changes to Risk Methodologies) prior to implementation and also for evaluating the performance of each Risk Model by performing independent model validations in each case in accordance with relevant procedures. Additionally, currently under the MRM Policy, the Executive Director of MRM is responsible for developing and maintaining the Annual Model Validation Plan. As proposed, the MRM Policy would provide that the head of MRM<sup>12</sup> develops and maintains the, now renamed, Annual Validation Plan ("Annual Plan")<sup>13</sup> and schedule for all in-use Risk Methodologies, including

delegate) retains the same responsibilities for Risk Model and Risk Methodology documentation. As a result, OCC believes that OCC's policies and procedures will continue to ensure clear and direct lines of responsibility, consistent with Rule 17Ad–22(e)(2)(v). 17 CFR 240.17Ad–22(e)(2)(v).

<sup>11</sup> OCC proposes that all references to QRM would be changed to FRM to account for the broadened scope from Risk Models to Risk Methodologies with the exception that the MRM Policy would continue to specify that QRM is responsible for the review of "Assessment Reports," which are conclusions drawn from a review of individual Risk Model performance, parameters, and assumptions.

<sup>12</sup> The current title of the head of MRM is the "Managing Director, Model Risk Management," rather than the "Executive Director." As titles may change over time, OCC proposes to simply refer to "the head of MRM" rather than specifying the precise title of the current head of MRM at this time.

<sup>13</sup> OCC also proposes to make clear in a footnote to the MRM Policy that the term "annual" means "12 months, or 365 days."

<sup>6</sup> For example, as part of OCC's Margin Methodology, OCC considers the settlement obligations of both an individual Clearing Member as well as its affiliates that comprise a Clearing Member Group. See OCC Rule 609, Interpretation and Policies .01 (providing that OCC will consider the margin assets of a Clearing Member's affiliates in determining whether a Clearing Member's forecasted settlement obligations to OCC could exceed the liquidity resources available to OCC to satisfy such obligations). The calculation of the relevant assets of a Clearing Member's affiliates as part of a Clearing Member Group are not part of a particular Risk Model (*e.g.*, the quantitative method to determine intra-day margin obligations) but are an input to the broader OCC Margin Methodology.

<sup>7</sup> 17 CFR 240.17Ad–22(e)(3).

<sup>8</sup> The current MRM Policy does address Risk Methodologies by providing that OCC's Quantitative Risk Management department is required to describe each Risk Model Methodology in a Methodology document.

<sup>9</sup> FRM includes, in addition to QRM, OCC's Credit Risk Management, Market Risk and Default Management, Pricing and Margins, Stress Testing and Liquidity Management departments.

<sup>10</sup> OCC also proposes certain other non-substantive changes to the MRM Policy intended to provide greater clarity. For example, currently the MRM Policy specifies that the Chief Financial Risk Officer ("CFRO") (or his or her delegate) shall review and, if appropriate, approve Risk Model documentation. OCC proposes to revise the description by removing the reference to delegate and adding that these functions are performed by following OCC's Risk Methodology Documentation Procedure. OCC does not intend this outcome to result in any substantive change in the roles and responsibilities related to documentation of Risk Methodologies (other than the scope expanding from Risk Models to Risk Methodologies). Moreover, OCC's Risk Methodology Documentation Procedure establishes that the CFRO (or the CFRO's

Risk Models.<sup>14</sup> As proposed, there would be no change to the Annual Plan, other than that it would now encompass Risk Methodologies more broadly—rather than just individual Risk Models.

OCC also proposes to provide some additional description of MRM's role by specifying that MRM independently validates all Risk Methodologies in accordance with the Methodology and Model Validation Procedure and the Methodology and Model Performance Monitoring Procedure, which includes reviewing the performance of each Risk Methodology and verifying the software is implemented as intended. As proposed, the MRM Policy would further specify that validation results, including any conclusions, are documented in validation reports, and are reviewed with FRM. These changes do not substantively alter the roles and responsibilities of MRM other than with respect to the expanded scope of assessing Risk Methodologies rather than just Risk Models. Instead, the changes are intended to provide greater specificity regarding MRM's current functions under the MRM Policy.

OCC also proposes to make non-substantive changes to the description of the roles and responsibilities of OCC's Model Risk Working Group ("MRWG"). The MRWG is generally responsible for, among other things, assisting OCC's Management Committee in overseeing and governing OCC's model-related risk issues, reviewing and, if appropriate, approving new Risk Models, material changes to Risk Models, and proposals for decommissioning Risk Models prior to submission to OCC's Management Committee for review.<sup>15</sup> Under the current MRM Policy, the MRWG consists of representatives from QRM, FRM, MRM, and OCC's Corporate Risk

Management department. As proposed, the MRWG would consist of representatives from FRM and OCC's Corporate Risk Management department. OCC notes that the same groups would be represented as part of the MRWG, only under different names. For example, QRM is already part of FRM (as explained above), so references to FRM already include QRM. Similarly, the Corporate Risk Management department includes MRM. Pursuant to the MRWG Procedure, a representative of each of the subgroups within FRM and the Corporate Risk Management department that are currently part of the MRWG would continue to be represented as part of the MRWG. The MRWG would consequently consist of representatives from all of the same groups as under the current MRM Policy, and the MRWG's functions would remain substantively the same.

#### Other Non-Substantive Changes

OCC proposes to delete Part VI of MRM Policy, which sets forth the meaning of certain defined terms in the Policy, such as the terms "Methodology," "Risk Model," "Model Inventory," "Material Change," "Model Risk," and "Risk Model Defect." Certain of these terms, such as "Risk Model" are already defined in the body of the MRM Policy, and OCC does not propose any substantive change to these defined terms.<sup>16</sup> OCC proposes to delete the term "Methodology" from the MRM Policy and replace such term with "Risk Methodology," as explained above, and set forth such new definition in the body of the MRM Policy. OCC proposes to delete the term "Risk Model Defect"<sup>17</sup> because such term is not used in the body of the MRM Policy, and the concept of a Risk Model Defect is captured under the concept of "observations" or "conclusions" arising from various reviews and validations of Risk Models and Risk Methodologies.<sup>18</sup>

<sup>16</sup> This is also true with respect to the definition of "Model Risk," which is currently defined as the potential for adverse consequences from decisions based on incorrect or misused model outputs. While OCC proposes to delete this defined term, this related description is preserved in the opening paragraph of the MRM Policy.

<sup>17</sup> The term "Risk Model Defect" is currently defined as an error, flaw, failure or fault in a computer program or system that causes a Risk Model to produce an incorrect or unexpected result, or to behave in unintended ways.

<sup>18</sup> Similarly, OCC proposes to delete the defined term "Decommissioned Model," which is currently defined as a Risk Model that has been approved by OCC's Risk Committee to no longer be used to estimate OCC's margin or clearing fund exposures. Such term is not currently used in the body of the MRM Policy. OCC is not proposing any substantive changes to the manner in which a Risk Model or Risk Methodology may be decommissioned under this proposed rule change. OCC also proposes to

OCC proposes to delete the definition of a "Material Change" because OCC believes that all changes to Risk Models and Risk Methodologies should be subject to the oversight processes outlined in the MRM Policy, rather than only those that might be considered "material." OCC also proposes to delete the definition of "Independent Model Validation," which is currently defined as evaluation of the performance of a Risk Model performed by a qualified person who is free from influence from the persons responsible for the development or operation of the models being validated. OCC believes that this change is not substantive because the MRM Policy, as proposed, would provide that MRM is responsible for independent model validations and that MRM personnel<sup>19</sup> performing such validations are independent from, do not report to, and are otherwise free from influence from OCC business areas involved in the development, implementation and operation of Risk Methodologies.<sup>20</sup>

OCC also proposes certain changes to the names of procedures mentioned in the MRM Policy. For example, the MRM Policy currently refers in certain places to the "Risk Model Development Procedure," the "Model Implementation Procedure," and the "Model Validation Procedure."<sup>21</sup> The Risk Model

delete the definition of "Model Inventory," referring to OCC's data base of in-use Risk Models and Risk Methodologies because references to OCC's Risk Model and Risk Methodology Inventory are self-explanatory.

<sup>19</sup> As noted above, under the proposed rule change, the head of MRM is responsible for maintaining "qualified staff with the requisite knowledge, skills, and expertise to perform validations" pursuant to relevant procedures. See *infra* n.16. As a result, the component of the "Independent Model Validation" referring to model validations being performed by a "qualified person" would be preserved to ensure that model validations are performed by qualified individuals.

<sup>20</sup> OCC also proposes to change references in the MRM Policy to "findings" (e.g., findings from Risk Model or Risk Methodology validations) to instead refer to these items as "observations." The purpose of this change is to avoid confusion with the use of the term "findings" in other OCC policies and procedures, such as in respect of regulatory findings or internal audit findings. But there would be no substantive change in any of the roles or responsibilities of the relevant OCC personnel with respect to Risk Model and Risk Methodology validation and performance monitoring. Relatedly, OCC also proposes to change the current reference to its "Model Findings Management Procedure" and its "Model Risk Management Findings Dashboard" to the "Model Risk Observations Management Procedure" and the "Model Risk Management Observations Dashboard" respectively.

<sup>21</sup> Similarly, OCC proposes to modify references to "Model Assessment Reports" to refer to just "Assessment Reports" in light of the broadened scope to capture Risk Methodologies rather than just "Risk Models." Additionally, OCC proposes to change references to the Risk Model Documentation

Continued

<sup>14</sup> Similarly, the current MRM Policy specifies that the Executive Director of MRM has qualified staff with the expertise to perform model validations in accordance with relevant procedures and that MRM personnel shall be independent from and not report to OCC business areas involved in the development, implementation and operation of Risk Models. Under this proposed rule change, the MRM Policy would provide that the head of MRM maintains qualified personnel to perform validations in accordance with relevant procedures and that such MRM personnel are independent from OCC business areas involved in the development, implementation and operation of Risk Methodologies.

<sup>15</sup> As proposed, to account for the expansion of the MRM Policy to address Risk Methodologies rather than just Risk Models, this description of the MRWG's role would be amended to provide that, pursuant to the Model Risk Working Group Procedure, the MRWG reviews and, if appropriate, approves all new Risk Methodologies, changes to Risk Methodologies, and proposals for decommissioning Risk Methodologies prior to submitting to the Management Committee for review and approval.

Development Procedure and Model Implementation Procedure have been merged into a single procedure. It is referred to as the “Risk Methodology Development and Implementation Procedure” to reflect the expanded scope of covering Risk Methodologies rather than just Risk Models. Similarly, the “Model Validation Procedure” has been modified for the same reason to refer to the “Methodology and Model Validation Procedure.”

In certain other places within the MRM Policy, OCC proposes to modify references to certain specific procedures. Specifically, the MRM Policy currently specifies that QRM monitors the use and performance of Risk Models according to OCC’s Model Backtesting Procedures, the Business Backtesting Procedure, and the Margin Model Parameter Review and Sensitivity Analysis Procedure. OCC proposes to add to this list that this also includes other “related policies and procedures,” and note that these additional related policies and procedures relate to OCC’s Clearing Fund Methodology Policy, Liquidity Risk Management Framework and Margin Policy. OCC proposes to add “and related policies and procedures” because there are a number of additional policies or procedures (over 20) not specifically enumerated in the MRM Policy that OCC believes should be generally referenced in the MRM Policy given their relevance to Risk Methodology monitoring functions.

Finally, OCC also proposes to make non-substantive amendments to streamline the description of the Management Committee’s annual review and approval of any changes to MRM Policy.<sup>22</sup>

### Risk Applications

OCC also proposes to add a description of “Risk Applications” to the MRM Policy. Risk Applications are tools with advanced quantitative or mathematical techniques that (a) apply to statistical, economic, or financial theories, and/or assumptions to process inputs into quantitative estimates, forecasts, or projections, and (b) do not

have direct impact on OCC’s margin, credit, or liquidity resources. OCC proposes to amend the MRM Policy to further specify that the Risk Application governance processes are outlined in the Risk Application Management Procedure and that, as part of this governance, MRM performs validations of the Risk Applications to verify the conceptual soundness of the Risk Application against its intended use, documented in validation reports, and that observations from such validations are addressed according to OCC’s Model Risk Observation Management Procedure. OCC proposes to include mention of Risk Applications, which are used by OCC today, in the MRM Policy so that the MRM Policy describes these additional tools that are complementary to OCC’s Risk Model and Risk Methodology management oversight. As noted, Risk Applications are tools that apply to processes (e.g., estimates, projections) that do not have a direct impact on OCC’s margin, credit, or liquidity resources. As a result, Risk Applications do not directly impact Risk Models or Risk Methodologies, but are nonetheless related to OCC’s processes for managing potential model risk.

Similarly, OCC also proposes to amend the MRM Policy to provide that OCC utilizes User Developed Applications (“UDAs”), which are analytical applications designed to manipulate and analyze data that are used on a repetitive basis and might expose OCC to Model Risk. OCC also proposes to specify in the MRM Policy that UDAs are subject to governance processes outlined in OCC’s User Developed Application (UDA) Management Procedure. Similar to Risk Applications, UDAs do not have a direct impact on OCC’s Risk Models or Risk Methodologies, but reflect tools used by OCC to manage potential risks arising from routine calculations or data analysis performed by OCC.

### (2) Statutory Basis

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest.<sup>23</sup> OCC believes that the proposed amendments to the MRM Policy, which are primarily designed to expand the scope of the MRM Policy to more directly govern Risk Methodologies (i.e., a collection of Risk

Models) rather than Risk Models individually, would help to ensure that OCC maintains policies and procedures that are reasonably designed to provide for a robust model risk management framework, which in turn promotes the protection of investors and the public interest. In particular, because Risk Models typically do not operate in isolation, but rather as part of a broader Risk Methodology, OCC believes that expanding the MRM Policy to more comprehensively focus on Risk Methodologies would promote a more sound risk management framework, consistent with Rule 17Ad-22(e)(3).<sup>24</sup> OCC believes that a more holistic approach would help to ensure that potential sources of model risk that may not have been formally subject to the MRM Policy are now subject to the MRM Policy, which in turn can further the protection of investors and the public interest which benefit from more sound risk management frameworks for registered clearing agencies.

Rule 17Ad-22(e)(2) requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that, among other things: (i) clearly prioritize safety and efficiency of the covered clearing agency; (ii) support the public interest requirements in section 17A of the Exchange Act<sup>25</sup> applicable to clearing agencies, and the objectives of owners and participants and (iii) specify clear and direct lines of responsibility.<sup>26</sup> OCC believes that the proposed changes to the MRM Policy are consistent with Rule 17Ad-22(e)(2) because they are designed to prioritize the safety and efficiency of OCC and support the public interest requirements in section 17A of the Exchange Act by helping to ensure that Risk Methodologies are reviewed holistically to evaluate potential model risk rather than evaluating model risk for Risk Models on a more individual basis. While OCC’s current processes under the MRM Policy do contemplate the evaluation of Risk Methodologies, OCC believes that the proposed changes will better facilitate a review of Risk Methodologies in their entirety, which OCC believes helps prioritize the safety and efficiency of OCC by addressing additional

Procedure to the Risk Methodology Documentation Procedure.

<sup>22</sup> Currently, the MRM Policy specifies that OCC’s Management Committee shall review and approve the Policy on an annual basis and recommend approval of the Policy to the Risk Committee and that the Management Committee also shall review and approve any material changes to the Model Risk Management Policy and recommend further approval to the Risk Committee. As proposed, the MRM Policy would provide that the Management Committee reviews and approves any changes to the Model Risk Management Policy annually and recommends further approval to the Risk Committee.

<sup>23</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>24</sup> 17 CFR 240.17Ad-22(e)(3).

<sup>25</sup> 15 U.S.C. 78q-1. The public interest requirements in section 17A of the Act include that the “prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating and acting on behalf of investors.” See 15 U.S.C. 78q-1(a)(1)(A).

<sup>26</sup> 17 CFR 240.17Ad-22(e)(2).



potential sources of model risk that may not have previously been directly subject to the MRM Policy. The safe and efficient management of risks related to the sufficiency of OCC's credit, margin, and liquidity resources—including arising from Risk Models and Risk Methodologies used to calculate and manage such risks—is necessary to allow OCC to effectively and continuously carry out its core clearing functions (such as transferring record ownership and safeguarding securities and funds). OCC notes that its current processes for reviewing Risk Models on an individual basis will not change under the proposed rule change, but will now encompass more directly a broader review of Risk Methodologies.

In addition, OCC believes the proposed changes to describe the roles and responsibilities of different groups and departments (e.g., changing references from QRM to FRM) under the MRM Policy are also consistent with Rule 17Ad-22(e)(2) because they would specify clear and direct lines of responsibility among OCC personnel with responsibilities under the MRM Policy and would reflect internal organizational changes within OCC. As described above, FRM encompasses different departments, including QRM, that collaborate with each other and that are tasked with responsibility for managing the Risk Methodology framework subject to the MRM Policy. QRM has and will continue to have primary responsibility for individual Risk Models, however, references in the MRM Policy would be changed to FRM to reflect that other departments within FRM may have responsibility for an input or output that is part of a Risk Methodology but not necessarily part of a Risk Model. This structure allows the processes related to Risk Models and Risk Methodology components to be aligned and managed under the one organizational umbrella of FRM, which in turn better addresses sources of model risk from a holistic perspective. The proposed changes in certain roles and responsibilities of different groups, such as providing that MRM is responsible for validating Risk Methodologies (including any changes to Risk Methodologies) prior to implementation, clearly and transparently reflects FRM's broadened scope of responsibility for the Risk Methodology framework. Moreover, the approach results in OCC having a coordinated strategy for managing the Risk Methodology framework and its components. None of the proposed changes, however, would change the CFRO's role or supervisory

responsibility regarding all FRM's departments or change QRM's specific responsibilities for Risk Models.<sup>27</sup>

Rule 17Ad-22(e)(3)(i) requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, maintain a sound risk management framework for comprehensively managing its risks, which includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by its board annually.<sup>28</sup> OCC believes that the proposed Policy is consistent with Rule 17Ad-22(e)(3)(i)<sup>29</sup> because the proposed changes are designed to, among other things, expand the MRM Policy to address Risk Methodologies comprehensively rather than Risk Models on a more individual basis and that the proposed changes thereby promote a more sound risk management framework for comprehensively managing its risks. OCC notes that under the proposed rule change, the MRM Policy would continue to be reviewed on a periodic basis and reviewed by OCC's Board annually.<sup>30</sup>

#### *(B) Clearing Agency's Statement on Burden on Competition*

Section 17A(b)(3)(I) of the Exchange Act<sup>31</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or

<sup>27</sup> OCC notes that it has modified the specific individual or title of the individual responsible for carrying out certain functions in two instances: (1) stating that FRM, rather than the CFRO, is responsible for writing, reviewing, and approving Risk Methodology documentation in accordance with OCC's Risk Methodology Documentation Procedure; and (2) changing the reference from the Executive Director of MRM to the "head of MRM." See *infra* n.11 and 14 and accompanying text. In the former case, while the FRM department is noted, the CFRO continues to be directly referenced for review and, if appropriate, approval of Risk Methodology documentation, and in the latter case, the change is non-substantive as it is intended to accommodate potential title changes to the head of MRM that may occur. See *id.* For these reasons, OCC does not believe that these changes would diminish clear or direct lines of responsibility under OCC's policies and procedures, including the proposed MRM Policy.

<sup>28</sup> 17 CFR 240.17Ad-22(e)(3)(i).

<sup>29</sup> *Id.*

<sup>30</sup> OCC also notes that it is not proposing any substantive changes to its current processes related to performing independent model validations on its credit risk models, margin models, and liquidity risk models, and the proposed MRM Policy should therefore remain consistent with the requirements of Rules 17Ad-22(e)(4)(vii), (e)(6)(vii) and (e)(7)(vii). 17 CFR 240.17Ad-22(e)(4)(vii), (e)(6)(vii) and (e)(7)(vii).

<sup>31</sup> 15 U.S.C. 78q-1(b)(3)(I).

appropriate in furtherance of the purposes of the Exchange Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change addresses OCC's internal framework surrounding the governance, development, implementation, use, monitoring, and validation of Risk Models and Risk Methodologies. Under this framework, OCC's controls regarding the design, use, implementation and validation of models, as set forth in the proposed MRM Policy, insofar as they affect margin or Clearing Fund requirements, would have an equal impact on all Clearing Members. Consequently, the proposed Policy does not provide any Clearing Member with a competitive advantage over any other Clearing Member. Further, the proposed rule change would not affect any Clearing Member's access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Exchange Act applicable to clearing agencies, and would not impact or impose a burden on competition.

#### *(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.



#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2023-004 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2023-004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules48T>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to File Number SR-OCC-2023-004 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>32</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023-10469 Filed 5-16-23; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-97482; File No. SR-ICC-2023-005]**

##### **Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Relating to the Clearance of Additional Credit Default Swap Contracts**

May 11, 2023.

On March 30, 2023, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-ICC-2023-005 ("Proposed Rule Change"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, to clear additional credit default swap contracts.<sup>3</sup> The Proposed Rule Change was published for public comment in the **Federal Register** on April 18, 2023.<sup>4</sup> The Commission has not received comments regarding the proposal described in the Proposed Rule Change.

Section 19(b)(2) of the Exchange Act<sup>5</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission

<sup>32</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Notice of Filing *infra* note 4, 88 FR at 23711.

<sup>4</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change Relating to the Clearance of Additional Credit Default Swap Contracts; Exchange Act Release No. 97293 (Apr. 12, 2023), 88 FR 23711 (Apr. 18, 2023) (File No. SR-ICC-2023-005) ("Notice").

<sup>5</sup> 15 U.S.C. 78s(b)(2).

shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the Notice of Filing is June 2, 2023. The Commission is extending this 45-day time period.

In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change.

Accordingly, the Commission, pursuant to section 19(b)(2) of the Exchange Act,<sup>6</sup> designates July 17, 2023 as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR-ICC-2023-005.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023-10467 Filed 5-16-23; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-97487; File No. SR-CBOE-2023-022]**

##### **Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update the Cboe Data Services, LLC Fee Schedule**

May 11, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 28, 2023, Cboe Exchange, Inc. ("Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to update the Cboe Data Services, LLC Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend the fees set forth in the Cboe Data Services, LLC ("CDS") Fee Schedule.<sup>3</sup> The Exchange proposes to (i) relocate the fees in the CDS Fees Schedule to the Exchange's Fees Schedule (ii) harmonize various definitions to align with the definitions used by the

Exchange's affiliates, and (iii) modify its fees relating to the distribution of the BBO data feed.<sup>4</sup>

#### Relocation of CDS Fees

The Exchange first proposes to consolidate the Cboe Data Services, LLC (CDS) Fee Schedule and the Cboe Options Fees Schedule. Historically, the CDS Fee Schedule set forth fees relating to real-time Cboe Options market data products and has been maintained separately from the Cboe Options Fees Schedule. The Exchange proposes to eliminate the CDS Fee Schedule in its entirety and relocate the fees under the CDS Fees Schedule to the Cboe Options Fees Schedule. The Exchange believes this provides a more streamlined fee schedule for Cboe Options fees and allows TPHs to more readily and easily find all fees applicable to Cboe Options. The Exchange also proposes to refer to the "Exchange" in lieu of "CDS" in the revised Fees Schedule to align with terminology used by its affiliated options exchanges Cboe BZX Exchange, Inc. ("BZX Options") and Cboe EDGX Exchange, Inc. ("EDGX Options"). The Exchange notes that no substantive changes are being made with the relocation of the CDS fees and elimination of references to CDS other than those discussed further below. The Exchange lastly notes that each of its affiliated options exchanges also reflect their respective fees for their respective

real-time exchange market data products in the respective exchange's fees schedule (instead of being maintained separately), including the Exchange's affiliate Cboe C2 Exchange, Inc., ("C2 Options"), which relocated its CDS fees schedule into the C2 Options Exchange Fees Schedule in 2018.<sup>5</sup> The Exchange also believes the proposed change more accurately reflects the Exchange's role as it relates to its market data products as CDS is merely an affiliate that is the Cboe contracting entity for all U.S. equities and options market data products, but the data products themselves are made available by the Exchange.

#### Definitions

In order to provide consistent rules and terminology amongst the Exchange and its affiliated options exchanges, C2 Options, BZX Options and EDGX Options (collectively, "Affiliates") the Exchange is proposing to amend various definitions and product names to harmonize with such terms used by its affiliates BZX Options and EDGX Options, as well as definitions used in Cboe's Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies.<sup>6</sup> As such, the proposed rule change deletes a defined term, adds certain defined terms, and makes certain non-substantive changes to existing definitions, as further described in the table below. The proposed rule change makes these changes throughout the market data fee language to conform to the proposed defined terms and the Exchange uses the proposed updated terms herein.

<sup>3</sup> The Exchange initially filed the proposed fee changes on January 3, 2023 (SR-CBOE-2023-001). On March 1, 2023, the Exchange withdrew that filing and replaced it with SR-CBOE-2023-013, which was filed on February 28, 2023. On April 28, 2023, the Exchange withdrew that filing and submitted this filing.

<sup>4</sup> The BBO Data Feed is a real-time data feed that includes the following information: (i) outstanding quotes and standing orders at the best available price level on each side of the market; (ii) executed trades time, size, and price; (iii) totals of customer versus non-customer contracts at the best bid and offer ("BBO"); (iv) all-or-none contingency orders priced better than or equal to the BBO; (v) expected opening price and expected opening size; (vi) end-of-day summaries by product, including open, high, low, and closing price during the trading session; (vi) recap messages any time there is a change in the open, high, low or last sale price of a listed option; (vii) COB information; and (viii) product IDs and codes for all listed options contracts. The quote and last sale data contained in the BBO data feed is identical to the data sent to the Options Price Reporting Authority ("OPRA") for redistribution to the public.

<sup>5</sup> See BZX Options Exchange Fees Schedule EDGX Options Exchange Fees Schedule and C2 Options Exchange Fees Schedule. See also Securities Exchange Act Release No. 83409 (June 12, 2011), 83 FR 28302 (June 18, 2018) (SR-C2-2018-012).

<sup>6</sup> C2 Options will be submitting a similar filing to harmonize its definitions and products names to align with those of BZX Options and EDGX Options as well.

Defined term	Provision	Current CDS location	Description of change
Customer .....	A "Customer" is any person, company or other entity that, pursuant to a market data agreement with CDS, is entitled to receive data, either directly from CDS or through an authorized redistributor (i.e., a Customer or an extranet service provider), whether that data is distributed externally or used internally. A third-party vendor of an Approved Third-Party Device, as defined in the CDS Fee Schedule, is not a Customer unless it has a market data agreement in place with CDS. A Floor Broker User, as defined in the CDS Fee Schedule, is not a Customer unless it has a market data agreement in place with CDS.	Section I .....	Deletes defined term to align terms with BZX Options and EDGX Options. The concept of "Customer" is also better captured through the proposed new term "Distributor". Eliminates language that specifies that a person, company, entity, third-party vendor or Floor Broker that does not have a market data agreement in place with CDS is not considered a "Customer" since the Exchange is not proposing to use that term in the Fees Schedule with respect to market data fees and does not believe it's necessary to clarify this point in the Fees Schedule. <sup>7</sup> Neither BZX Options nor EDGX Options refer to market data agreements in their respective Fees Schedules.
Distributor .....	A Distributor of an Exchange Market Data product is any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.	N/A .....	Codifies definition of "Distributor" in Footnote 49 of the Cboe Options Fees Schedule. An Exchange Market Data Product refers to any Data Product set forth in the Market Data Fees section of the Exchange's Fees Schedule. Definition is identical to the definition used by BZX Options and EDGX Options and substantially similar to the language in the first sentence of the definition of "Customer" in the CDS Fees Schedule.
Internal Distributor .....	An Internal Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.	N/A .....	Codifies definition of "Internal Distributor" in Footnote 49 of the Cboe Options Fees Schedule. Definition is identical to the definition used by BZX Options and EDGX Options.
External Distributor .....	An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.	N/A .....	Codifies definition of "External Distributor" in Footnote 49 of the Cboe Options Fees Schedule. Definition is identical to the definition used by BZX Options and EDGX Options.
User .....	A User of an Exchange Market Data product is a natural person, a proprietorship, corporation, partnership, or entity, or device (computer or other automated service), that is entitled to receive Exchange data.	N/A .....	Codifies definition of "User" in Footnote 49 of the Cboe Options Fees Schedule. Definition is identical to the one used by BZX Options and EDGX Options.
Non-Professional User	A "Non-Professional User" is a natural person or qualifying trust that uses Data only for personal purposes and not for any commercial purpose and, for a natural person who works in the United States, is not: (i) registered or qualified in any capacity with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an "investment adviser" as that term is defined in section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt; or, for a natural person who works outside of the United States, does not perform the same functions as would disqualify such person as a Non-Professional User if he or she worked in the United States.	Section III .....	Relocates definition to Footnote 49 of the Cboe Options Fees Schedule and updates the rule reference to "section 201(11)" of the Investment Advisors Act of 1940 to "section 202(a)(11)".

Defined term	Provision	Current CDS location	Description of change
Professional User .....	A Professional User of an Exchange Market Data product is any User other than a Non-Professional User.	Section III .....	Relocates definition to Footnote 49 of the Cboe Options Fees Schedule and eliminates reference to “natural person” recipient of “Data” to align with the “Professional User” definition used by BZX Options and EDGX Options, as well as Cboe’s market data policies and agreements.
Display Only Service ...	A “Display Only Service” allows a natural person end-user to view and manipulate data using the Distributor’s computerized service, but not to save, copy, export or transfer the data or any results of the manipulation to any other computer hardware, software or media, except for printing it to paper or other non-magnetic media.	Section I .....	Relocates definition to Footnote 49 of the Cboe Options Fees Schedule. Replaces reference to “Customer” with “Distributor”.
Device .....	A “Device” means any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form.	Section I under “Display Only User Fees”.	Relocates definition to Footnote 49 of the Cboe Options Fees Schedule.
Approved Third-Party Device.	An “Approved Third-Party Device” means any computer, workstation or other item of equipment, fixed or portable, that receives, accesses and/or displays data in visual, audible or other form that has been provided by a third-party and that has been approved, by Cboe Options, for use on the Cboe Options trading floor.	Section I under “Floor Broker User Fees”.	Relocates definition to Footnote 49 of the Cboe Options Fees Schedule.
Floor Broker User .....	A “Floor Broker User” is a person or entity registered with Cboe Options as a floor broker pursuant to Cboe Options Rules.	Section I under “Floor Broker User Fees”.	Relocates definition to Footnote 49 of the Cboe Options Fees Schedule.

The Exchange also proposes to rename the following market data products and use the proposed names

herein, in order to align with the naming convention used by the Exchange’s affiliates, BZX Options and

EDGX Options, for similar data products.<sup>8</sup>

Current name	Proposed name
BBO Data Feed .....	Cboe Options Top.
Book Depth Data Feed .....	Cboe Options Depth.
Complex Order Book (COB) Data Feed .....	Cboe Options Complex Order Book (COB).
FLEX Options Data Feed .....	Cboe Options FLEX Options.

The Exchange believes the proposed changes to eliminate, modify and adopt the terms discussed above will add transparency to the Fees Schedule and will protect investors, as the changes provide more clarity within the rule and more harmonized rule language across the Fees Schedules of the Cboe affiliated options exchanges, as well as well as definitions used in Cboe’s Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies. Further, the Exchange notes that the above-described changes relating to definitions are non-substantive changes or provide additional detail in the rule regarding current market participants that purchase or use the Exchange’s market

data products. None of these differences impact the manner in which any of the terms and corresponding fees apply, including how the Exchange would have otherwise characterized a Distributor or User (Professional or Non-Professional) as such definitions are more consistent with the definitions already used in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, to which all firms receiving Cboe Options market data must adhere to.

#### Cboe Options Top Fee Changes

The Exchange next proposes to modify the current monthly Data Fee for Cboe Options Top. Currently, the Exchange assesses a “Data Fee” of

\$9,000 per month for internal use and external redistribution of the Cboe Options Top Data Feed. A Distributor receiving the Cboe Options Top Data Feed from another entity or directly from the Exchange is assessed the Data Fee by the Exchange and is entitled to use the Data internally and/or distribute it externally. The Exchange now proposes to adopt separate fees for internal and external distribution. Specifically, the Exchange proposes to maintain the current monthly fee of \$9,000 for internal distribution but adopt a lower fee of \$5,000 per month for external distribution.<sup>9</sup>

The Exchange next proposes to modify its current User Fees. The Exchange currently charges a “User

<sup>7</sup> All Distributors of Cboe Options proprietary market data products are subject to Cboe Global Markets North American Data Policies and must still sign the Cboe Global Markets Global Data Agreement.

<sup>8</sup> See BZX Options Exchange Fees Schedule, Market Data Fees and EDGX Options Exchange Fees Schedule, Market Data Fees.

<sup>9</sup> Under the proposal, a Distributor that wishes to distribute Cboe Options Top internally and

externally would be subject to a combined monthly fee of \$14,000 (*i.e.*, \$9,000 for internal distribution and \$5,000 for external distribution).

Fee” of \$50 per month per Device or user ID for use of the data in the Cboe Options Top Data Feed by “Display Only Service” users. The current User fee is payable only for “external” Display Only Service users who receive Cboe Options Top and are not employees or natural person independent contractors of the Distributor, the Distributor’s affiliates or an authorized service facilitator.<sup>10</sup> Internal Distributors may currently distribute Cboe Options Top Data to an unlimited number of internal Users and Devices within the Distributor at no further cost (aside from the above-mentioned monthly Distribution Fee). The Exchange proposes to eliminate the current Cboe Options Top User fee and in its place adopt Professional and Non-Professional User fees for Cboe Options Top that would apply to both Internal and External Distributors for all Professional and Non-Professional Users. The Exchange proposes to charge Cboe Options Top Distributors a monthly fee of \$15.50 per Professional User and a monthly fee of \$0.30 per Non-Professional User.<sup>11</sup>

Next, the Exchange proposes to eliminate a fee waiver for Distributors of Cboe Options Top Data. In particular, the CDS Fee Schedule currently provides that the monthly data fee of \$9,000 per month for the Cboe Options Depth feed<sup>12</sup> and Cboe Options COB

feed<sup>13</sup> are waived for Distributors of Cboe Options Top Data. The Exchange proposes to eliminate the fee waivers for Cboe Options Depth and Cboe Options COB for External Distributors of Cboe Options Top (*i.e.*, the monthly \$9,000 data fee for Cboe Options Depth will only continue to be waived for Internal Distributors of Cboe Options Top Data and the monthly \$3,000 data fee for Cboe Options COB will only continue to be waived for Internal Distributors of Cboe Options Top and/or Distributors (Internal or External) of Cboe Options Depth Feed). The Exchange wishes only to eliminate the availability of the fee waiver for External Distributors of Cboe Options Top for both Cboe Options Depth and Cboe Options COB because such distributors will already be receiving the benefit of the proposed reduced fee for external distribution of Cboe Options Top as compared to Internal Distributors of Cboe Options Top who will continue to be charged the higher fee of \$9,000.

The Exchange lastly proposes to establish a \$300,000 per month Enterprise Fee that will permit a Distributor to purchase a monthly (and optional) Enterprise license to receive the Cboe Options Top Data for distribution to an unlimited number of Professional and Non-Professional Users. The Enterprise Fee is an alternative to Professional and Non-Professional User fees and is assessed in addition to the Distribution Fee, which the Exchange proposes to make clear in the Fee Schedule. The Enterprise Fee may provide an opportunity to reduce fees. For example, if a Distributor has 20,000 Professional Users who each receive Cboe Options Top at \$15.50 per month (as proposed), then that Distributor will pay \$310,000 per month in Professional User fees. If the Distributor instead were to purchase the proposed Enterprise license, it would alternatively pay a flat fee of \$300,000 for an unlimited number of Professional and Non-Professional Users. A Distributor must pay a separate Enterprise Fee for each entity that controls the display of Cboe Options

Top if it wishes for such Users to be covered by the Enterprise Fee rather than by per User fees.<sup>14</sup> A Distributor that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. Rather, every six months, the Distributor must provide the Exchange with a count of the total number of Professional and Non-Professional Users of Cboe Options Top Data.<sup>15</sup> The Exchange notes that the purchase of an Enterprise license is voluntary, and a firm may elect to instead use the per User structure and benefit from the proposed per User Fees described above. For example, a firm that does not have a sufficient number of Users to benefit from purchase of the license need not do so.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.<sup>16</sup> Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)<sup>17</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes this proposal is consistent with section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.<sup>18</sup> The

<sup>10</sup> Pursuant to the Cboe Global Markets North American Data Policies, Distributors must report the number of authorized external devices that receive Cboe Options Top data during a calendar month within 15 days after such month in the manner and format specified by the Exchange from time to time to determine applicable fees. In connection with a Distributor’s distribution of the market data product, Distributors are required to report all Professional and Non-Professional Users in accordance with the following: Distributor should count as one User each unique User that the Distributor has entitled to have access to the market data product. However, where a device is dedicated specifically to a single individual, the Distributor should count only the individual and need not count the device. Distributor should identify and report each unique User. If a User uses the same unique method to gain access to the market data product, the Distributor should count that as one User. However, if a unique User uses multiple methods to gain access to the market data product (*e.g.*, a single User has multiple passwords and user identifications), the Distributor should report all of those methods as an individual User. Distributors should report each unique individual person who receives access through multiple devices as one User so long as each device is dedicated specifically to that individual. If a Distributor entitles one or more individuals to use the same device, the Distributor should include only the individuals, and not the device, in the count.

<sup>11</sup> Distributors that receive Cboe Options Top Data will be required to count every Professional User and Non-Professional User to which they provide the data feed.

<sup>12</sup> The Cboe Options Depth feed is a real-time, low latency data feed that includes all data contained in the Cboe Options Top feed (as

described above) plus outstanding quotes and standing orders for an additional four price levels on each side of the market, with aggregate size (“Book Depth”). The data in the Cboe Options Depth feed is refreshed periodically during the trading session.

<sup>13</sup> The Cboe Options COB feed is a real-time feed that consists of data regarding the Exchange’s Complex Order Book and related complex order information. The Cboe Options COB feed includes “best bid and offer” or “BBO” quotes and identifying information for all Cboe Options-traded complex order strategies, as well as all executed Cboe Options complex order trades (and identifies whether the trade was a customer trade or whether a complex order in the COB is a customer order).

<sup>14</sup> For example, if a Distributor (*e.g.*, Refinitiv) that distributes Cboe Options Top to Retail Brokerage Firm A and Retail Brokerage Firm B (which “entities” redistribute BZX Options Top to its respective Users) and wishes to have the Users under each firm covered by an Enterprise license, the Distributor would be subject to two Enterprise Fees.

<sup>15</sup> See Cboe Global Markets north American Data Policies.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> 15 U.S.C. 78f(b)(8).

Exchange lastly believes the proposed rule change is consistent with section 6(b)(4) of the Act,<sup>19</sup> which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange first notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.<sup>20</sup> The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. Indeed, there are several competing products offered by other national securities exchanges today, not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. options exchanges also offers similar top-of-book data.<sup>21</sup> Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the Cboe Options Top Feed. Further, the quote and last sale data contained in the Cboe Options Data Feed is identical to the data sent to OPRA for redistribution to the public, including data relating to the Exchange's proprietary and exclusively listed products.<sup>22</sup> Accordingly, Exchange top-of-book data is widely available today from a number of different sources.

Moreover, the Cboe Options Top Data Feed is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the

reasonableness of fees charged. As described above, market participants have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, persons (including broker-dealers) who subscribe to any exchange proprietary data feed must also have equivalent access to consolidated Options Information<sup>23</sup> from OPRA for the same classes or series of options that are included in the proprietary data feed (including for exclusively listed products), and proprietary data feeds cannot be used to meet that particular requirement.<sup>24</sup> As such, all proprietary data feeds are purely optional and only those that deem the product to be of sufficient overall value and usefulness would purchase it.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>25</sup> Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more or less attractive than a competitor they can and do switch between similar

products. The proposed fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of Cboe Options Top Data.

The Exchange believes the proposed External Distribution fee is reasonable as it would represent a decreased fee for any Distributor who is only interested in distributing Cboe Options Top externally. Providing an opportunity for lower cost access to U.S. options market data such as Cboe Options Top benefits a wide range of investors that participate in the national market system and makes it more broadly available, including non-professional retail investors who, by definition, do not receive the data for commercial purposes and therefore would not be receiving the data via internal distribution. The Exchange believes the proposed fees for external distribution of Cboe Options Top will also continue to be allocated fairly and equitably, and are not unfairly discriminatory, as the proposed fee will apply equally to all Distributors that choose to subscribe to Cboe Options Top and distribute that data to external Users. More specifically, as proposed, all External Distributors of Cboe Options Top will be subject to the same external distribution fee, regardless of the type of business that they operate, or the use they plan to make of the data feed. Thus, all External Distributors would have access to Cboe Options Top for purposes of external distribution on the same equitable and non-discriminatory terms.

The Exchange believes that it is also fair and equitable, and not unfairly discriminatory to charge different fees for internal and external distribution of the Cboe Options Top. Although the proposed distribution fee charged to External Distributors will be lower than the existing distribution fee charged to Internal Distributors, External Distributors are subject to User fees for both Non-Professional Users and Professional Users, whereas Internal Distributors will only subject to fees for Professional Users (or alternatively the proposed Enterprise Fee). Moreover, Internal Distributors of Cboe Options Top will still have the benefit of receiving Cboe Options Depth and/or Cboe Options COB at no additional cost, whereas the waiver to receive Cboe Options Depth will not be available for External Distributors of Cboe Options Top. The Exchange also notes that Cboe Options Depth and Cboe Options COB are more likely to be distributed internally as such data is used by Professional Users, including employees of Distributors, whereas Cboe Options Top is more likely to be distributed externally as such data is expected to be

<sup>19</sup> 15 U.S.C. 78f(b)(4).

<sup>20</sup> See Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (April 24, 2023), available at [https://markets.cboe.com/us/options/market\\_statistics/](https://markets.cboe.com/us/options/market_statistics/).

<sup>21</sup> See e.g., NYSE Arca Options Proprietary Market Data Fees Schedule, MIA Options Exchange, Fee Schedule, Section 6 (Market Data Fees), Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees) and C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees.

<sup>22</sup> The Exchange notes that it makes available the BBO data and last sale data that is included in the Cboe Options Top Data Feed no earlier than the time at which the Exchange sends that data to OPRA.

<sup>23</sup> "Consolidated Options Information" means consolidated Last Sale Reports combined with either consolidated Quotation Information or the BBO furnished by OPRA. Access to consolidated Options Information is deemed "equivalent" if both kinds of information are equally accessible on the same terminal or work station. See Limited Liability Company Agreement of Options Price Reporting Authority, LLC ("OPRA Plan"), Section 5.2(c)(iii). The Exchange notes that this requirement under the OPRA Plan is also reiterated under the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies, which subscribers to any exchange proprietary product must sign and are subject to, respectively. Additionally, the Exchange's Data Order Form (used for requesting the Exchange's market data products) requires confirmation that the requesting market participant receives data from OPRA.

<sup>24</sup> *Id.*

<sup>25</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

used more frequently by Non-Professional Users who, by definition, do not receive the data for commercial purposes (*e.g.*, retail investors). The Exchange therefore believes that the proposed reduced fee for External Distributors is reasonable because it may encourage more distributors to choose to offer the Cboe Options Top Data Feed, thereby expanding the distribution of this market data for the benefit of investors, and particularly retail investors.

The Exchange next notes it is not required to charge a single distribution fee to cover more than one of its available data products, but none-the-less has opted to not charge for separate data fees for Cboe Options Depth and Cboe Options COB for Distributors of Cboe Options Top, since such waiver was adopted in January 1, 2015 [*sic*].<sup>26</sup> However, the Exchange no longer wishes to maintain the fee waiver of Cboe Options Depth or Cboe Options COB for External Distributors of Cboe Options Top. The Exchange believes the proposed elimination of the waivers is reasonable, equitable and not unfairly discriminatory because although External Distributors will not receive the benefit of the fee waiver, they will be subject to a lower distribution fee as compared to Internal Distributors of Cboe Options Top who will continue to be charged the higher fee of \$9,000. Additionally, the Exchange notes that all Distributors of Cboe Options COB are also Distributors of Cboe Options Depth, and therefore already have (and will continue to have) their monthly distribution fee for Cboe Options COB waived since Distributors of Cboe Options Depth qualify for a waiver of the monthly distribution fee for Cboe Options COB.<sup>27</sup> Moreover, the Exchange does not anticipate the impact of the proposed rule change to be significant as most market participants (over 70%) buy either Cboe Options Top or Cboe Options Depth (and not both) and nearly 80% of Distributors of Cboe Options Top and Cboe Options Depth distribute such products internally. Further, Distributors are not required to distribute, and Users are not required to receive, any one particular data product and may choose to receive none, one, or several of the Exchange's market data products. Only those that deem any product or products to be of sufficient overall value and usefulness would purchase such product(s). The Exchange

is also not required to maintain a single fee that covers multiple market data products. In fact, other exchanges similarly have adopted separate fees for different data products that historically had otherwise been provided under a single fee.<sup>28</sup> The Exchange believes the proposed change is equitable and not unfairly discriminatory as it will apply uniformly to External Distributors.

The Exchange believes the proposed changes to adopt new Professional and Non-Professional User fees are reasonable as the User fees continue to be in line with User fees assessed by other exchanges for similar data.<sup>29</sup> Moreover, Display Only Service Users will now be subject to lower fees as the Exchange proposes to significantly reduce the monthly User fees from \$50 per Device or User ID for Display Only Service User to \$15.50 per Professional User or \$0.30 per Non-Professional User. Although External Distributors are currently only subject to a User fee for external Users that are Display Only Service Users, the proposed fee for all external Users (which are likely to be Non-Professional Users) is significantly lower (*i.e.*, \$0.30 per Non-Professional User) than the current \$50 User fee. Moreover, the proposed fee structure of differentiated Professional and Non-Professional fees that are paid by both Internal and External Distributors has long been used by other exchanges, including the Exchange, for their proprietary data products, and by the OPRA plan in order to reduce the price

of data to retail investors and make it more broadly available.<sup>30</sup> The Exchange also believes offering Cboe Options Top Data to Non-Professional Users at a rate lower than the rate for Professional Users results in greater equity among data recipients, as Professional Users are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Although Non-Professional Users too can receive significant financial benefits through their participation in the markets, the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to Distributors for their Professional and Non-professional Users.

Although Internal Distributors do not currently pay any User fees for Cboe Options Top, the Exchange believes its reasonable, equitable and not unfairly discriminatory to start assessing User fees, as internal and external users will be treated the same. Additionally, other exchanges also assess User fees for internal users of similar data, including the Exchange's affiliates.<sup>31</sup> Moreover, the proposed rates Internal Distributors will be subject to for User fees are in line with User fees assessed by other exchanges for similar data.<sup>32</sup> The Exchange believes the proposed monthly User fees for which Internal Distributors of Cboe Options Top will now be subject to are equitably allocated because they would be charged on an equal basis for all internal Users that receive Cboe Options Top.

The proposed Enterprise Fee for Cboe Options Top Feed is equitable and reasonable as the proposed fee could result in a fee reduction for Distributors with a large number of Professional and Non-Professional Users. If a Distributor has a smaller number of Professional Users of Cboe Options Top Data, then it

<sup>28</sup> See Securities Exchange Act Release No. 79556 (December 14, 2016), 81 FR 92935 (December 20, 2016) (SR-NASDAQ-2016-167).

<sup>29</sup> See *e.g.*, Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees), which provides for a fee of \$40 per month to professional users and \$1.00 per month to non-professional users to cover the usage of PHLX Options (TOPO) Data, TOPO Plus Orders, PHLX Orders and PHLX Depth Data feeds. See also NYSE American Options Proprietary Market Data Fees schedule, which provides for a fee of \$50 per month to professional users and \$1.00 per month to non-professional users of American Options Top Data, American Options Deep and American Options Complex products. By comparison, the total Professional User fee for Cboe Options Top and Cboe Options COB is in line with the above Professional User fee at \$40.50 per Professional User (*i.e.*, \$15.50 per Professional Users of Cboe Options Top, as proposed, and \$25 per Professional User of Cboe Options COB). The Exchange's combined Non-Professional User Fee at \$0.30 per Non-Professional User (*i.e.*, \$0.30 per Non-Professional User of Cboe Options Top, as proposed, and \$0 per Non-Professional User of Cboe Options COB) is lower than PHLX's and NYSE American's aforementioned Non-Professional User fees. Cboe Options Depth is not included in the above comparison because there are no User fees based on Professional or Non-Professional classification, but rather a \$50 per month, per Device or User ID fee for Display Only Service external users only. Further there are no fees for any internal Users.

<sup>26</sup> See Securities Exchange Act Release No. 70683 (October 15, 2013), 78 FR 62798 (October 22, 2013) (SR-CBOE-2013-087).

<sup>27</sup> See Cboe Data Services, LLC (CDS) Fee Schedule, Section III, Complex Order Book ("COB") Data Feed, Data Fee.

<sup>30</sup> See, *e.g.*, Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131) (establishing the \$15 Non-Professional User Fee (Per User) for NYSE OpenBook); See, *e.g.*, Securities Exchange Act Release No. 67589 (August 2, 2012), 77 FR 47459 (August 8, 2012) (revising OPRA's definition of the term "Nonprofessional"); and See Securities Exchange Act Release No. 70683 (October 15, 2013), 78 FR 62798 (October 22, 2013) (SR-CBOE-2013-087) (establishing Professional and Non-Professional User fees for Cboe Options COB Data Feed).

<sup>31</sup> See BZX Options Fees Schedule, Market Data Fees and EDGX Options Fees Schedule, Market Data Fees. See also Nasdaq PHLX Options 7 Pricing Schedule, Section 10 (Proprietary Data Feed Fees).

<sup>32</sup> See *supra* note 29.

may continue using the per User structure and benefit from the proposed per Cboe Options Top User Fee reductions. By reducing prices for Distributors with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute Cboe Options Top Data, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count Professional and Non-Professional users every six months, which is a significant reduction in administrative burden. Finally, as described above the Enterprise Fee is entirely optional. A firm that does not have a sufficient number of Users to benefit from purchase of the license need not do so.

The Exchange lastly believes the proposed changes relating to the defined terms and terminology will provide additional specificity and clarity, while also harmonizing the various definition with that of its affiliates and providing more consistency with definitions used in the Cboe Global Markets Global Data Agreement and Cboe Global Markets North American Data Policies. Doing so would ensure consistent terms amongst the Exchange and its affiliates, as well as the Exchange's data agreements and policies, thereby reducing the potential for confusion amongst market data subscribers of the Exchange's and its affiliates' market data products. Additionally, the proposed new terms are identical to the terms already used by the Exchange's affiliates BZX Options and EDGX Options. Similarly, the Exchange believes the proposal to relocate the fees in the CDS Fees Schedule to the Cboe Options Fees Schedule will provide for a more streamlined fees schedule and allow TPHs to more readily and easily find all fees applicable to Cboe Option, thereby reducing potential confusion. Further, the Exchange is the only exchange of the Cboe options exchanges that currently maintains a separate fees schedule for its market data product fees. Accordingly, the Exchange believes the proposed changes remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data is constrained by competition among exchanges that offer similar data products to their customers. For example, Top-of-book data is broadly disseminated by competing U.S. options exchanges. Further, the Exchange's proposal to eliminate the waiver for the Cboe Options Depth and Cboe Options COB data fees for External Distributors of Cboe Options Top does not modify the existing fee amounts, but simply eliminates waivers to receive such data products free of charge that the Exchange is not required to maintain. Other exchanges are free to adopt a similar waiver if they choose. In this competitive environment potential Distributors are free to choose which competing product to purchase to satisfy their respective needs for market information. Often, the choice comes down to price, as market data participants look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees and eliminated waiver would apply to all similarly situated Distributors of Cboe Options Top on an equal and non-discriminatory basis. The Exchange believes the reduced fees for External Distributors and not Internal Distributors of Cboe Options Top is appropriate given External Distributors are subject to both the proposed Non-Professional and Professional user fees as compared to Internal Distributors who are only subject to Professional user fee (since non-professional users, by definition, do not receive the data for commercial purposes and therefore would not be receiving the data via internal distribution) s, [sic]. Additionally, Internal Distributors will continue to receive the benefit of a fee waiver for Cboe Options Depth and Cboe Options COB, which are more commonly used products for internal distribution amongst Professional Users. The Exchange believes the differentiated fees for Professional and Non-Professional Users of Cboe options Top is appropriate given Professional Users

are categorized as such based on their employment and participation in financial markets, and thus, are compensated to participate in the markets. Non-Professional Users too can receive significant financial benefits through their participation in the markets, however the Exchange believes it is reasonable to charge more to those Users who are more directly engaged in the markets. The Exchange therefore believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition.

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, market participants are not forced to subscribe to Cboe Options Top Data, or any of the Exchange's data feeds, as described above. As noted, the quote and last sale data contained in the Exchange's Cboe Options Top feed is identical to the data sent to OPRA for redistribution to the public, including data relating to the Exchange's proprietary and exclusively listed products. Accordingly, Exchange top-of-book data is therefore widely available today from a number of different sources.

Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>33</sup> and paragraph (f) of Rule 19b-4<sup>34</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

<sup>33</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>34</sup> 17 CFR 240.19b-4(f).



temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2023-022 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CBOE-2023-022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from

publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CBOE-2023-022 and should be submitted on or before June 7, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>35</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023-10471 Filed 5-16-23; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97483; File No. SR-MSRB-2023-01]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Consisting of Amendments to MSRB Rule G-40, on Advertising by Municipal Advisors, and MSRB Rule G-8, on Books and Records

May 11, 2023.

#### I. Introduction

On January 31, 2023, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change ("original proposed rule change") to amend MSRB Rule G-40 ("Rule G-40"), on advertising by municipal advisors, and MSRB Rule G-8 ("Rule G-8"), on books and records.

The original proposed rule change was published for comment in the **Federal Register** on February 14, 2023.<sup>3</sup> The Commission received two comment letters on the original proposed rule change.<sup>4</sup> On March 21, 2023, the MSRB granted an extension of time for the

Commission to act on the filing until May 15, 2023.<sup>5</sup>

On April 4, 2023, the MSRB responded to the comment letters<sup>6</sup> and filed Amendment No. 1 to the original proposed rule change ("Amendment No. 1").<sup>7</sup> On April 11, 2023, the Commission published notice of Amendment No. 1 in the **Federal Register**.<sup>8</sup> In response to Amendment No. 1, the Commission received one comment letter.<sup>9</sup> On April 28, 2023, the MSRB submitted a response to the comment received on Amendment No. 1.<sup>10</sup> This order approves the original proposed rule change, as modified by Amendment No. 1 (as so modified, the "proposed rule change").

#### II. Description of Original Proposed Rule Change

The MSRB stated that, consistent with its strategic goal to modernize its rulebook, the original proposed rule change would amend Rule G-40 to allow municipal advisors to use testimonials in certain circumstances.<sup>11</sup> The MSRB stated that this change would better align Rule G-40 with, to the extent appropriate, the principles of MSRB Rule G-21 ("Rule G-21"), on advertising by brokers, dealers or municipal securities, as well as Rule 206(4)-1<sup>12</sup> under the Investment Advisers Act of 1940 ("Advisers Act")<sup>13</sup> adopted in 2020<sup>14</sup> by the Commission.<sup>15</sup>

Specifically, the MSRB indicated the original proposed rule change would consist of amendments to Rule G-40 to: (i) permit municipal advisors to use testimonials in advertisements, subject to certain conditions; (ii) specify additional supervisory obligations with

<sup>5</sup> See "Extension of Time on File No. SR-MSRB-2023-01 to May 15, 2023," available at <https://msrb.org/sites/default/files/2023-03/MSRB-2023-01%20eot.pdf>.

<sup>6</sup> See Letter to Secretary, Commission, from Saliha Olgun, Interim Chief Regulatory Officer, MSRB, dated April 4, 2023 (the "MSRB Letter I").

<sup>7</sup> Amendment No. 1 is available at <https://msrb.org/sites/default/files/2023-04/MSRB-2023-01%20A-1.pdf>.

<sup>8</sup> Securities Exchange Act Release No. 97255 (Apr. 5, 2023), 88 FR 21729 (Apr. 11, 2023) ("Notice of Amendment No. 1").

<sup>9</sup> See Letter to Secretary, Commission, from Susan Gaffney, Executive Director, National Association of Municipal Advisors, dated April 26, 2023 ("NAMA Letter II").

<sup>10</sup> See Letter to Secretary, Commission, from Saliha Olgun, Interim Chief Regulatory Officer, MSRB, dated April 28, 2023 ("MSRB Letter II").

<sup>11</sup> Notice, 88 FR at 9580.

<sup>12</sup> 17 CFR 275.206(4)-1.

<sup>13</sup> 15 U.S.C. 80b-1 *et seq.*

<sup>14</sup> See Investment Advisers Act Release No. 5653 (Dec. 22, 2020), the adopting release for Investment Adviser Marketing (the "SEC 2020 Adopting Release"), 86 FR 13024 (Mar. 5 2021).

<sup>15</sup> Notice, 88 FR at 9580-81.

<sup>35</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 96840 (Feb. 8, 2023), 88 FR 9580 (Feb. 14, 2023) ("Notice").

<sup>4</sup> See Letter to Secretary, Commission, from Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association ("SIFMA"), dated March 7, 2023 ("SIFMA Letter"); Letter to Secretary, Commission, from Susan Gaffney, Executive Director, National Association of Municipal Advisors ("NAMA"), dated March 7, 2023 ("NAMA Letter I").

respect to the use of testimonials; (iii) modify the definition of municipal advisory client to better align with MSRB Rule G–38, on solicitation of municipal securities business; (iv) specify the obligation to keep a record of any payment for a testimonial; and (v) create a conforming obligation under Rule G–8, on books and records to be made by brokers, dealers, municipal securities dealers and municipal advisors, to include records to correspond with the current obligation under Rule G–40 to maintain records relating to the supervision of advertisements as well as the proposed obligation to maintain records of any payments for a testimonial.<sup>16</sup>

#### A. Background

##### 1. Advertisements Under Rule G–40

According to the MSRB, in recognition of the fact that municipal advisors bear similarities with both brokers, dealers and municipal securities dealers (collectively and individually, “dealers”) and investment advisers, and to promote regulatory consistency for regulated entities dually registered as a dealer and as a municipal advisor, or as an investment adviser registered with the SEC, the MSRB established advertising standards for municipal advisors in 2018.<sup>17</sup> The MSRB noted that those advertising standards were developed by aligning with, to the extent practicable, the then existing standards for investment advisers under Rule 206(4)–1 and the then existing standards for dealers under Rule G–21.<sup>18</sup>

The MSRB stated that Rule G–40 is designed to protect municipal entities, obligated persons and the general public by requiring a municipal advisor’s advertisement to adhere to specific content standards based on the principles of fair dealing and good faith.<sup>19</sup>

According to the MSRB, in establishing Rule G–40, it determined to prohibit municipal advisors, directly or indirectly, from publishing, circulating or distributing any advertisement which refers, directly or indirectly, to any testimonial of any kind concerning the municipal advisor or concerning the advice, analysis, report or other service rendered by the municipal advisor.<sup>20</sup>

The MSRB stated that at that time, it expressed the view that a testimonial in a municipal advisor’s advertisement would present significant issues, including the possibility of being misleading.<sup>21</sup> As a basis for this view, the MSRB noted that the Commission had taken a similar position in adopting Advisers Act Rule 206(4)–1 in 1961 (“Initial IA Advertising Rule” or “Initial Rule 206(4)–1”), determining that the use of a testimonial by an investment adviser would constitute a fraudulent, deceptive, or manipulative act, practice, or course of action.<sup>22</sup> The MSRB expressed that it believed that doing so would help ensure consistent regulation between regulated entities subject to a fiduciary standard, and that the MSRB determined to act consistently with the language of Initial Rule 206(4).<sup>23</sup>

##### 2. Testimonials Under Rule G–21

The MSRB stated that in establishing Rule G–40, it also sought, to the extent practicable, to harmonize with its existing rule governing the advertisements of dealers, Rule G–21.<sup>24</sup> The MSRB also wrote that, while not identical, the two MSRB rules are both based on principles of fair dealing and maintain rigorous content standards.<sup>25</sup> However, the MSRB noted that Rule G–40 currently prohibits a municipal advisor from using a testimonial in an advertisement.<sup>26</sup> The MSRB described that this prohibition is based in part on the fiduciary duty that a non-solicitor municipal advisor (as opposed to a dealer) owes its municipal entity clients.<sup>27</sup>

The MSRB explained that Rule G–21 permits a dealer to use a testimonial in an advertisement if certain conditions are met.<sup>28</sup> Specifically, the MSRB noted that, if a dealer’s advertisement contains a testimonial, then the person providing the testimonial concerning a technical aspect of investing must have the knowledge and experience to form a

valid opinion.<sup>29</sup> Additionally, the MSRB stated that, if an advertisement contains a testimonial about the investment advice or investment performance of the dealer, the advertisement must prominently disclose: (i) the fact that the testimonial may not be representative of the experience of other customers; (ii) the fact that the testimonial is no guarantee of future performance or success; and (iii) if more than \$100 in value is paid for the testimonial, the fact that it is a paid testimonial.<sup>30</sup>

##### 3. Testimonials Under Advisers Act Rule 206(4)–1

The MSRB stated that in establishing Rule G–40 in 2018, it recognized that the Commission was considering modernizing the Initial IA Advertising Rule and noted that it would monitor developments related to the testimonial ban.<sup>31</sup> The MSRB recounted that, on December 22, 2020, the Commission adopted amendments to modernize and consolidate the Initial IA Advertising Rule and Rule 206(4)–3 of the Advisers Act (the “IA Solicitation Rule”) <sup>32</sup> into one marketing rule for investment advisers, under the Advisers Act (the “Modernized IA Marketing Rule” or “IA Rule 206(4)–1”).<sup>33</sup>

The MSRB indicated that when the Commission adopted the Modernized IA Marketing Rule, the Commission stated that this rule replaced the previous rule’s “broadly drawn limitations with principles-based provisions designed to accommodate the continual evolution and interplay of technology and advice and includes tailored requirements for certain types of advertisements.” <sup>34</sup> The MSRB noted that the Modernized IA Marketing Rule replaced the prior ban on testimonials under the Initial IA Advertising Rule with a permissive use of testimonials and endorsements in

<sup>29</sup> Notice, 88 FR at 9581; *see also* Rule G–21(a)(iii)(G)(1).

<sup>30</sup> Notice, 88 FR at 9581; *see also* Rule G–21(a)(iii)(G)(2).

<sup>31</sup> Notice, 88 FR at 9581; *see also* Notice of Proposed MSRB Rule G–40, 83 FR at 5487.

<sup>32</sup> Notice, 88 FR at 9581; *see also* 17 CFR 275.206(4)–3. The IA Solicitation Rule was adopted in 1979 “to help ensure clients are aware that paid solicitors who refer them to advisers have a conflict of interest.” *See* SEC 2020 Adopting Release, 86 FR at 13025.

<sup>33</sup> Notice, 88 FR at 9581; *see generally* SEC 2020 Adopting Release. The Modernized IA Marketing Rule applies to any investment adviser registered or required to be registered with the Commission under section 203 of the Advisers Act that directly or indirectly disseminates an advertisement.

<sup>34</sup> Notice, 88 FR at 9581–82; *see also* “SEC Adopts Modernized Marketing Rule for Investment Advisers,” (Dec. 22, 2020), available at <https://www.sec.gov/news/press-release/2020-334>.

<sup>16</sup> Notice, 88 FR at 9580.

<sup>17</sup> *See* Securities Exchange Act Release No. 83177 (May 7, 2018), 83 FR 21794 (May 10, 2018) (approving MSRB–2018–01, implementing new Rule G–40). The effective date for municipal advisors to comply with Rule G–40 was August 23, 2019. Notice, 88 FR at 9581 n. 6.

<sup>18</sup> Notice, 88 FR at 9581.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*; *see also* Rule G–40(a)(iv)(G).

<sup>21</sup> Notice, 88 FR at 9581; *see also* Securities Exchange Act Release No. 82616 (Feb. 1, 2018), 83 FR 5474 (Feb. 7, 2018), notice of proposed rule change (“Notice of Proposed Rule G–40”).

<sup>22</sup> Notice, 88 FR at 9581; *see also* Investment Advisers Act Release No. 121 (Nov. 1, 1961) (the “1961 Advertising Rule Adopting Release”), 26 FR 10548 (Nov. 9, 1961). The Commission adopted the 1961 Advertising Rule to target advertising practices that the Commission believed were likely to be misleading. Notice, 88 FR at 9581 n.13.

<sup>23</sup> Notice, 88 FR at 9581; *see also* Notice of Proposed Rule G–40, 83 FR at 5478 n. 26.

<sup>24</sup> Notice, 88 FR at 9581.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*; *see generally* Notice of Proposed MSRB Rule G–40.

<sup>28</sup> Notice, 88 FR at 9581; *see generally* Rule G–21.

advertisements,<sup>35</sup> which includes traditional referral and solicitation activity, subject to certain conditions.<sup>36</sup>

The MSRB stated that the Modernized IA Marketing Rule requires advertisements that include testimonials or endorsements to provide disclosures of certain information.<sup>37</sup> The MSRB noted that all testimonials, including those that are compensated and uncompensated, are subject to oversight and compliance.<sup>38</sup>

In light of the Commission's adoption of the Modernized IA Marketing Rule, the MSRB stated that it conducted a review of Rule G-40 and filed the original proposed rule change to promote regulatory consistency among regulated entities subject to a fiduciary standard.<sup>39</sup> The MSRB indicated that the original proposed rule change would permit municipal advisors to use testimonials in advertisements, subject to certain conditions, as discussed below.<sup>40</sup>

#### *B. Summary of the Original Proposed Rule Change*

The MSRB stated that to promote regulatory consistency, where practicable, among Rule G-40, Rule G-21, and the SEC's Modernized IA Marketing Rule, proposed amended Rule G-40 would permit the use of testimonials subject to disclosures and other tailored conditions.<sup>41</sup> The MSRB further described that the original proposed rule change would not only align Rule G-40 with the analogous requirements for dealers under Rule G-21, but, because municipal advisors

have a fiduciary duty to their clients, the original proposed rule change would also include certain provisions, tailored to apply to municipal advisors, which align with the SEC's Modernized IA Marketing Rule.<sup>42</sup> Specifically, according to the MSRB, the original proposed rule change would amend the content standards under Rule G-40(a)(iv) to permit municipal advisors to use testimonials in advertisements subject to certain conditions; amend the supervisory obligations under Rule G-40(c) to specify additional supervisory obligations with respect to the use of testimonials; modify the definition of municipal advisory client; and amend Rule G-8 to include records to correspond with the current obligation under Rule G-40 to maintain records relating to the supervision of advertisements.<sup>43</sup>

#### *1. Rule G-40 Content Standards*

The MSRB stated that Rule G-40 currently prohibits the use of testimonials in advertisements by municipal advisors.<sup>44</sup> The MSRB explained that it is not proposing to alter the fundamental content standards of Rule G-40 that require advertisements to be based on the principles of fair dealing and good faith, be fair and balanced, and provide a sound basis for evaluating the facts and that the advertisements not make any false, exaggerated, unwarranted, promissory, or misleading statement or claim.<sup>45</sup> The MSRB explained that, consistent with those standards, and recognizing the fiduciary duty owed by municipal advisors to their municipal entity clients, the MSRB proposed to permit the use of testimonials in advertisements by municipal advisors subject to certain conditions that the MSRB believes would diminish the concern, expressed in establishing Rule G-40, that testimonials could cause a municipal advisor's advertisement to be misleading.<sup>46</sup> The MSRB stated that, as proposed, Rule G-40(a)(iv)(G) would be amended to provide that municipal advisor advertisements that contain testimonials would be subject to additional content standards.<sup>47</sup>

The MSRB explained that if a municipal advisor's advertisement contains a testimonial of any kind concerning the municipal advisor or concerning the advice, analysis, report, or other service rendered by the municipal advisor, the person making the testimonial would be required to have the knowledge and experience to form a valid opinion.<sup>48</sup> The MSRB stated that this obligation would standardize the content standard with that applicable to dealers' use of testimonials under Rule G-21.<sup>49</sup> The MSRB argued that applying this standard to municipal advisors is consistent with the existing content standards of Rule G-40 established to prevent false or misleading advertisements and would promote regulatory consistency.<sup>50</sup>

The MSRB stated that if an advertisement contains a testimonial concerning the municipal advisor or concerning the advice, analysis, report, or other service rendered by the municipal advisor, that advertisement must include, clearly and prominently, disclosures designed to reduce the risk that the use of a testimonial in an advertisement could be misleading.<sup>51</sup>

indirectly, publish, circulate or distribute an advertisement which refers directly or indirectly, to a testimonial. See Amendment No. 1; Notice of Amendment No. 1, 88 FR at 21729.

<sup>48</sup> Notice, 88 FR at 9582. In Amendment No. 1, the MSRB also removed language from the original proposed rule change that referred to the "advice, analysis or report or other services, rendered by the municipal advisor" and instead, uses "municipal advisory services" in the proposed definition of "testimonial" and elsewhere in the rule text. See Amendment No. 1; Notice of Amendment No. 1, 88 FR at 21729. The MSRB also clarified that a municipal advisor may only use a testimonial if the person or entity providing the testimonial has the knowledge and experience to make a statement concerning their experience with the municipal advisor or with the municipal advisory services rendered by the municipal advisor. See Amendment No. 1; Notice of Amendment No. 1, 88 FR at 21730.

<sup>49</sup> Notice, 88 FR at 9582. This content standard in Rule G-21 currently aligns with the standard established in Rule 2210, Communications with the Public, of the Financial Industry Regulatory Authority ("FINRA"). Specifically, FINRA Rule 2210(d)(6)(A) provides that "if any testimonial in a communication concerns a technical aspect of investing, the person making the testimonial must have the knowledge and experience to form a valid opinion." Notice, 88 FR at 9582 n. 33.

<sup>50</sup> Notice, 88 FR at 9582.

<sup>51</sup> Notice, 88 FR at 9583. The MSRB added a Supplementary Material .03 to Rule G-40 to clarify that in order for a requisite disclosure in an advertisement to be clear and prominent (including that a testimonial is a paid testimonial), the disclosure must be at least as prominent in the advertisement as the testimonial. According to the MSRB, this revision indicates that disclosures should appear close to the associated testimonial statement with the same prominence so that the statement and disclosures are read at the same time, rather than referring the reader to somewhere else in the advertisement. See Amendment No. 1; Notice of Amendment No. 1, 88 FR at 21730.

<sup>35</sup> A "testimonial" is a statement made by a current client or investor in a private fund advised by the investment adviser, whereas an "endorsement" is a statement made by a person other than a current client or investor in a private fund advised by the investment adviser. See 17 CFR 275.206(4)-1(e)(17); 1(e)(5).

<sup>36</sup> Notice, 88 FR at 9582. See also 17 CFR 275.206(4)-1(b) (relating to compensated testimonials and endorsements); 17 CFR 206(4)-1(e)(1)(ii) (defining the term "advertisement" to include compensated testimonials and endorsements). These conditions differ depending on whether the testimonial or endorsement is compensated or uncompensated. 17 CFR 275.206(4)-1(b)(4)(i) (exempting a testimonial or endorsement disseminated for no compensation or *de minimis* compensation from paragraphs 206(4)-1(b)(2)(ii) and (3)).

<sup>37</sup> Notice, 88 FR at 9582. See also 17 CFR 275.206(4)-1(b)(1).

<sup>38</sup> Notice, 88 FR at 9582.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* The term "testimonial" is not specifically defined in Rule G-21 or Rule G-40; based on the application of each rule, the term has been understood to include a statement given by a current client or person other than a current client and does not distinguish between a testimonial and an endorsement. See Notice, 88 FR at 9582 n. 28; see also Rules G-21 and G-40.

<sup>41</sup> Notice, 88 FR at 9582.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*; Rule G-40(a)(iv)(G).

<sup>45</sup> Notice, 88 FR at 9582; Rule G-40(a)(iv)(A)-(F); G-40(a)(v); G-40(b)(ii).

<sup>46</sup> Notice, 88 FR at 9582.

<sup>47</sup> *Id.* Amendment No. 1 specifically defines the term "testimonial" for purposes of Rule G-40 as a "statement of a person's or entity's experience concerning the municipal advisor or concerning the municipal advisory services rendered by the municipal advisor." Furthermore, if a municipal advisor's advertisement meets certain conditions, then a municipal advisor may, directly or

First, the MSRB explained that the testimonial must include a clear and prominent disclosure that the person providing the testimonial is a current municipal advisory client or, if not currently a municipal advisory client, the timeframe, denoted by calendar year(s), during which the person was a municipal advisory client.<sup>52</sup> The MSRB concluded that the clear and prominent disclosure standard requires that the disclosures be included within the advertisement that includes the testimonial such that the testimonial and disclosures are read at the same time and improve the salience and impact of the disclosures.<sup>53</sup>

The MSRB also wrote that the testimonial would also be required to include clear and prominent disclosures that the testimonial may not be representative of the experience of other clients, that the testimonial is no guarantee of future performance or success, and, if more than \$100 in total value in cash or non-cash compensation is paid for the testimonial, the fact that it is a paid testimonial.<sup>54</sup> The MSRB explained that requiring municipal advisors that use testimonials to adhere to these disclosure requirements would harmonize the content standards with those applicable to dealers' use of testimonials under Rule G–21.<sup>55</sup> The MSRB argued that requiring such disclosures is consistent with the existing content standards of Rule G–40 and would promote regulatory consistency.<sup>56</sup>

Finally, the MSRB noted that the testimonial also would be required to include, clearly and prominently, a brief statement of any material conflicts of interest on the part of the person providing the testimonial resulting from the municipal advisor's relationship with such person.<sup>57</sup> The MSRB wrote that, recognizing the fiduciary duty owed by municipal advisors to their municipal entity clients, the MSRB considered the obligations of registered investment advisers, who, like municipal advisors, are subject to a fiduciary standard in determining the disclosures that would be appropriate for municipal advisors when using

testimonials in advertisements.<sup>58</sup> The MSRB stated that this disclosure obligation parallels a disclosure obligation required of registered investment advisers under IA Rule 206(4)–1(b)(1)(iii).<sup>59</sup> The MSRB explained that a brief statement of any material conflicts of interest on the part of the person providing the testimonial resulting from the municipal advisor's relationship with such person would result in information that informs the likely recipients of the advertisement (*i.e.*, municipal entities and obligated persons) which serves to ensure that the advertisement is fair and balanced and reduces the risk that the use of a testimonial could be misleading.<sup>60</sup> Furthermore, the MSRB discussed that establishing the same disclosure obligation for municipal advisors under Rule G–40 promotes regulatory consistency, particularly among regulated entities subject to a fiduciary standard.<sup>61</sup> The MSRB wrote that it expects this disclosure to be succinct.<sup>62</sup>

Next, the MSRB explained that there are two broad categories of municipal advisors:<sup>63</sup> (i) those that provide certain advice to or on behalf of a municipal entity or obligated person; and (ii) those that undertake certain solicitations of a municipal entity or obligated person on behalf of certain third-party financial professionals, often referred to as solicitors.<sup>64</sup> The MSRB stated that it understands that municipal entity clients generally do not accept compensation for testimonials and believes that the payment of more than a *de minimis* amount (more than \$1000 in total value in cash or non-cash compensation during the preceding 12 months) to a municipal entity client could present a potential conflict of interest.<sup>65</sup> Therefore, according to the MSRB, proposed Rule G–40(a)(iv)(G)(3) would prohibit a non-solicitor municipal advisor from paying more than a *de minimis* amount of compensation for a testimonial.<sup>66</sup>

The MSRB stated that, to avoid this concern and to avoid creating complexity in Rule G–40 by establishing different standards for obligated person clients of non-solicitor municipal

advisors, it determined to prohibit non-solicitor municipal advisors from paying any compensation for a testimonial to a person, directly or indirectly, of more than \$1000 in total value in cash or non-cash compensation during the preceding 12 months.<sup>67</sup> However, the MSRB noted that this change would, permit solicitor municipal advisors to pay such compensation to a municipal advisor, or an investment adviser (as defined under section 202 of the Advisers Act) on behalf of whom the municipal advisor undertakes, or has undertaken, a solicitation of a municipal entity or obligated person, as defined in Exchange Act Rule 15Ba1–1(n)<sup>68</sup> subject to certain conditions.<sup>69</sup>

## 2. Rule G–40 Supervisory Obligations

The MSRB identified that Rule G–40 currently requires that each advertisement subject to the requirements of the rule be approved in writing by a municipal advisor principal, as defined in MSRB Rule G–3(e)(i), prior to first use.<sup>70</sup> The MSRB noted that the original proposed rule change would broaden these supervisory obligations to require, with respect to an advertisement that includes a testimonial, that such approval be based on a reasonable belief that the testimonial complies with the requirements of proposed Rule G–40(a)(iv)(G).<sup>71</sup> The MSRB wrote that this additional supervisory obligation is appropriate in allowing municipal advisors the use of testimonials in advertisements.<sup>72</sup> The MSRB stated that this obligation would be consistent with the oversight obligation under the Modernized IA Marketing Rule that requires an investment adviser to have a reasonable basis for believing that a testimonial complies with the requirements of IA Rule 206(4)–1.<sup>73</sup> The MSRB argued that establishing the same obligation for municipal advisors under

<sup>67</sup> Notice, 88 FR at 9583–84.

<sup>68</sup> 17 CFR 240.15Ba1–1(n).

<sup>69</sup> Notice, 88 FR at 9584. In response to comments that the proposal to establish a different standard for the use of testimonials by solicitor municipal advisors was confusing, the MSRB proposed in Amendment No. 1 to remove proposed language that would have permitted, subject to certain conditions, a solicitor municipal advisor to pay more than \$1000 in total value in cash or non-cash compensation during the preceding 12 months for a testimonial. Further, the MSRB eliminated the language in the original proposed rule change in Rules G–40 and G–8 concerning additional records to be maintained by a solicitor municipal advisor related to such payments. Notice of Amendment No. 1, 88 FR at 21730.

<sup>70</sup> Notice, 88 FR at 9584; *see also* Rule G–40.

<sup>71</sup> Notice, 88 FR at 9584.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*; *see also* 17 CFR 275.206(4)–1(b)(2)(i).

<sup>52</sup> Notice, 88 FR at 9583. The MSRB stated that it would amend the original proposed rule change to permit municipal advisors to use testimonials from a third party, whether a person or entity, subject to the conditions set forth in Amendment No. 1. Notice of Amendment No. 1, 88 FR at 21729.

<sup>53</sup> Notice, 88 FR at 9583.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* These disclosure requirements in Rule G–21 currently align with the disclosure requirements in FINRA Rule 2210(d)(6)(B)(1)–(3). Notice, 88 FR at 9583 n. 38.

<sup>56</sup> Notice, 88 FR at 9583.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Notice, 88 FR at 9583. *See also* 15 U.S.C. 78o–4(e)(4); 17 CFR 240.15Ba1–1(d)(1)(i); Securities Exchange Act Release No. 70462 (Sept. 20, 2013), 78 FR 67467, n. 138 and 408 (Nov. 12, 2013).

<sup>64</sup> Notice, 88 FR at 9583. *See also* 15 U.S.C. 78o–4(e)(9); 17 CFR 240.15Ba1–1(n), 17 CFR 240.15Ba1–1(d)(1); (d)(3)(viii).

<sup>65</sup> Notice, 88 FR at 9583.

<sup>66</sup> *Id.*

Rule G–40 would promote regulatory consistency, particularly among regulated entities subject to a fiduciary standard.<sup>74</sup>

### 3. Rule G–40 Definitions

The MSRB stated that Rule G–40(a)(iii) currently defines “municipal advisory client,” for purposes of Rule G–40, to include either: a municipal entity or obligated person for whom the municipal advisor engages in municipal advisory activities, as defined in MSRB Rule G–42(f)(iv); or a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser (as defined under section 202 of the Advisers Act) on behalf of whom the municipal advisor undertakes a solicitation of a municipal entity or obligated person, as defined in Rule 15Ba1–1(n) under the Act.<sup>75</sup> However, the MSRB explained that MSRB Rule G–38 prohibits dealers from paying persons who are not affiliated with the dealers for a solicitation of municipal securities business on their behalf.<sup>76</sup> The MSRB stated that, to avoid confusion and promote standardization across MSRB rules, the proposal would modify the definition of municipal advisory client.<sup>77</sup> Specifically, the MSRB wrote that the amended definition would exclude a broker, dealer, and municipal securities dealer from the list of entities on behalf of whom the municipal advisor undertakes a solicitation of a municipal entity or obligated person.<sup>78</sup>

### 4. Recordkeeping Requirements Under Rules G–40 and G–8

The MSRB explained that Rule G–40 currently requires that each municipal advisor make and keep current in a separate file, records of all advertisements.<sup>79</sup> The MSRB stated that the original proposed rule change would extend that obligation to include records of any payment made to a municipal advisory client for a testimonial.<sup>80</sup> The MSRB noted that original proposed rule change also would make a conforming amendment to the recordkeeping obligations under Rule G–8(h) to add subparagraph (viii) to include records concerning compliance with Rule G–40.<sup>81</sup> Specifically, the MSRB articulated that the original proposed rule change would amend Rule G–8(h) to specify

that every municipal advisor that is registered or required to be registered under section 15B of the Act (and the rules and regulations thereunder) would be required to make and keep current the records specified under Rule G–40.<sup>82</sup> The MSRB concluded that this proposal would include not only a record of all advertisements, which is currently required under Rule G–40(e), but also, to align with the proposed amendments to Rule G–40(e), a record of any cash or non-cash compensation provided to a municipal advisory client, as that term is defined in Rule G–40(a)(iii) and a record of any written agreement with a municipal advisor or investment adviser required under proposed Rule G–40(a)(iv)(G)(3)(b), which is required to describe the scope of the agreed-upon activities with respect to the testimonial and the terms of the compensation for such.<sup>83</sup>

The MSRB argued that specifying these recordkeeping requirements would provide more certainty for municipal advisors with respect to their recordkeeping obligations.<sup>84</sup> In addition, the MSRB stated that with the application of existing MSRB Rule G–9, which requires that municipal advisors generally preserve the books and records described in G–8(h) for a period of not less than five years, the proposed amendments to Rule G–8(h) would provide examining authorities beneficial information to assist in evaluating a municipal advisor’s compliance with Rule G–40.<sup>85</sup> In addition, the MSRB wrote that the proposed amendment to Rule G–8 would align with SEC recordkeeping requirements, which require a municipal advisor to make and keep true, accurate, and current certain books and records relating to its municipal advisory activities, including originals or copies of all written communications sent, by such municipal advisor (including inter-office memoranda and communications) relating to municipal advisory activities, regardless of the format of such communications.<sup>86</sup>

### III. Description of Amendment No. 1

As described further below, the MSRB filed Amendment No. 1 to respond to comments on the original proposed rule

change, relating to: (1) the definition of “testimonial;” (2) non-client testimonials; (3) solicitor municipal advisors; (4) social media guidance; and (5) other clarifications to rule text and design.<sup>87</sup>

#### A. Definition of Testimonial

The MSRB noted that a commenter suggested that the term “testimonial” be defined within the rule language itself.<sup>88</sup> The MSRB responded, stating it would provide a definition of a “testimonial” in Rule G–40 to avoid confusion with the term “testimonial” as used in Rule 206–4(1)<sup>89</sup> under the Advisers Act.<sup>90</sup> Specifically, the MSRB defined “testimonial” in the amended Rule G–40(a)(iv)(G)(1) as “a statement of a person’s or entity’s experience concerning the municipal advisor or concerning the municipal advisory services rendered by the municipal advisor.”<sup>91</sup> Furthermore, the MSRB also removed language from the original proposed rule change referring to the “advice, analysis, report, or other services rendered by the municipal advisor.”<sup>92</sup> The MSRB concluded that replacing this language with “municipal advisory services” in the definition of “testimonial” (and elsewhere in the original proposed rule change’s rule text) provided greater clarity.<sup>93</sup> The MSRB also made conforming numbering changes to the original proposed rule change’s Rule G–40 revisions to accommodate the addition of the definition of “testimonial” to amended Rule G–40(a)(iv)(G)(1).<sup>94</sup>

The MSRB stated that the revised rule text in amended Rule G–40(a)(iv)(G)(2) provides that, if a municipal advisor’s advertisement meets certain conditions, then a municipal advisor may, directly or indirectly, publish, circulate or distribute an advertisement which refers, directly or indirectly, to a testimonial.<sup>95</sup> The MSRB wrote that this definition addresses a comment requesting that Rule G–40 include a definition of the term “testimonial,” but also a comment’s suggestion that the rule “include affirmative language that

<sup>87</sup> Notice of Amendment No. 1, 88 FR at 21729. The MSRB stated that Amendment No. 1 does not alter or impact the analysis in the original proposed rule change’s burden on competition or the statutory basis sections. *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> 17 CFR 275.206(4)–1(b)(1).

<sup>90</sup> Notice of Amendment No. 1, 88 FR at 21729.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.* The MSRB also added a cross-reference to the new definition of “testimonial” in the original proposed rule change’s Rule G–8. Notice of Amendment No. 1, 88 FR at 21729 n.16.

<sup>95</sup> Notice of Amendment No. 1, 88 FR at 21729.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* Municipal advisors are also subject to the recordkeeping requirements described in Exchange Act Rule 15Ba1–8(a)(1)–(8).

<sup>86</sup> Notice, 88 FR at 9585; *see also* 17 CFR 240.15Ba1–8. Rule G–8 requires that municipal advisors make and keep current all books and records described in Exchange Act Rule 15Ba–18(a)(1)–(8).

<sup>74</sup> Notice, 88 FR at 9584.

<sup>75</sup> Notice, 88 FR at 9584; *see also* Rule G–40(a)(iii).

<sup>76</sup> Notice, 88 FR at 9584.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*; *see also* Rule G–40(e).

<sup>80</sup> Notice, 88 FR at 9584–85.

<sup>81</sup> Notice, 88 FR at 9585.

testimonials may be used if certain requirements are met.”<sup>96</sup> The MSRB also deleted a redundant phrase later in this subsection; specifically, amended Rule G–40(a)(iv)(G)(2)(b)(iv) (“the paid testimonial must include”).<sup>97</sup>

#### B. Non-Client Testimonials

The MSRB noted that both commenters suggested that it would promote further harmonization with Rule G–21, on advertising by brokers, dealers, and municipal securities dealers, if municipal advisors were able to use testimonials by third parties.<sup>98</sup> The MSRB stated that it would amend the original proposed rule change to permit municipal advisors to use testimonials from a third party, whether a person or entity, subject to the conditions set forth in proposed Amendment No. 1.<sup>99</sup> The MSRB reasoned that, for example, analogous to Rule 206–4(1)<sup>100</sup> under the Advisers Act,<sup>101</sup> an advertisement of a municipal advisor that includes a testimonial would need to include a disclosure indicating whether the testimonial is from a current client or from someone who is not a current client.<sup>102</sup> The MSRB wrote that it agreed with the Commission’s belief that this type of disclosure would provide important context for weighing the relevance of the testimonial.<sup>103</sup>

#### C. Solicitor Municipal Advisors

The MSRB stated that both commenters found the proposal to establish a different standard for the use of testimonials by solicitor municipal advisors confusing.<sup>104</sup> In response, the MSRB revised the original proposed rule change to create uniformity in the criteria for the use of testimonials by all municipal advisors.<sup>105</sup> Specifically, the MSRB removed proposed language that would have permitted, subject to certain conditions, a solicitor municipal advisor to pay more than \$1000 in total value in cash or non-cash compensation during the preceding 12 months for a testimonial.<sup>106</sup> Additionally, the MSRB eliminated the proposed language in the original proposed rule change in Rules G–40 and G–8 concerning additional

records to be maintained by a solicitor municipal advisor related to such payments.<sup>107</sup> The MSRB concluded that these revisions in Amendment No. 1 would prohibit any municipal advisor from providing any compensation to a person or entity, directly or indirectly, of more than \$1000 in total value in cash or non-cash compensation during the preceding 12 months.<sup>108</sup>

#### D. Social Media Guidance

The MSRB wrote that both commenters suggested that the MSRB’s “FAQs regarding the Use of Social Media under Rule G–21, on Advertising by Brokers, Dealers or Municipal Securities Dealers, and Rule G–40, on Advertising by Municipal Advisors” (“social media guidance”)<sup>109</sup> be updated to reflect the proposed amendments to Rule G–40.<sup>110</sup>

The MSRB responded by proposing to amend its social media guidance to reflect the proposed amendments to Rule G–40 (*inter alia*, allowing the use of testimonials in municipal advisor advertisements, subject to certain conditions).<sup>111</sup> The MSRB explained that the current social media guidance notes that, by paying for or soliciting positive comments from a third party: (i) a municipal advisor would be deemed to be entangled with those comments, and (ii) the posting of those third-party comments on the municipal advisor’s social media page would be deemed to be an advertisement by the municipal advisor that contains a testimonial.<sup>112</sup> The MSRB stated that such revisions to the social media guidance would make clear that the advertisement containing a testimonial would be permissible so long as the advertisement meets the requirements of Rule G–40 (including having the requisite disclosures).<sup>113</sup>

In addition, the MSRB noted that the revised social media guidance would make clear that if a municipal advisor did not pay, directly or indirectly, for a testimonial, but liked, shared, or commented on a post from a third-party,

the municipal advisor would be deemed to have adopted those comments and the posting of those third party comments on the municipal advisor’s social media page would be deemed an advertisement that contains a testimonial.<sup>114</sup> The MSRB concluded that the advertisement containing a testimonial would be permissible so long as the advertisement meets the requirements of Rule G–40 (including having the requisite disclosures).<sup>115</sup> The MSRB also revised the social media guidance’s footnotes with updated citations and conforming numbering changes.<sup>116</sup>

#### E. Other Modifications to Rule Text

As discussed further below, the MSRB also proposed other textual changes in Amendment No. 1 to provide additional clarity and facilitate compliance.<sup>117</sup>

##### 1. Language in Rule G–40 Regarding Use of a Testimonial

The MSRB stated that it revised the original proposed rule change to clarify that a municipal advisor may only use a testimonial if the person or entity providing the testimonial has the knowledge and experience to make a statement concerning their experience with the municipal advisor or with the municipal advisory services rendered by the municipal advisor.<sup>118</sup>

##### 2. Supplementary Material .03 to Rule G–40

The MSRB added Supplementary Material .03 to Rule G–40 to the original proposed rule change, stating that this revision would clarify that, in order for a requisite disclosure in an advertisement to be clear and prominent (including that a testimonial is a paid testimonial), the disclosure must be at least as prominent in the advertisement as the testimonial.<sup>119</sup> The MSRB also explained that this revision indicates that disclosures should appear close to the associated testimonial statement with the same prominence so that the statement and disclosures are read at the same time, rather than referring the reader to somewhere else in the advertisement to view the disclosures.<sup>120</sup>

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*; see also NAMA Letter I and SIFMA Letter.

<sup>99</sup> Notice of Amendment No. 1, 88 FR at 21729.

<sup>100</sup> 17 CFR 275.206(4)–1(b)(1).

<sup>101</sup> 15 U.S.C. 80b–1–80b–2.

<sup>102</sup> Notice of Amendment No. 1, 88 FR at 21729.

<sup>103</sup> Notice of Amendment No. 1, 88 FR at 21729;

see also SEC 2020 Adopting Release, 86 FR at 13048.

<sup>104</sup> Notice of Amendment No. 1, 88 FR at 21729–30; see also NAMA Letter I and SIFMA Letter.

<sup>105</sup> Notice of Amendment No. 1, 88 FR at 21730.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* Correspondingly, the MSRB added the phrase “directly or indirectly” to the original proposed rule change’s Rule G–8. Notice of Amendment No. 1, 88 FR at 21730 n.30.

<sup>109</sup> These frequently asked questions (“FAQs”) were filed with the Commission for immediate effectiveness. See Securities Exchange Act Release No. 85222 (Feb. 28, 2019), 84 FR 8132 (Mar. 6, 2019). These FAQs can be found on the MSRB’s website at <https://www.msrb.org/FAQs-regarding-Use-Social-Media-under-MSRB-Rule-G-21-Advertising-Brokers-Dealers-or-Municipal-0> (Aug. 23, 2019).

<sup>110</sup> Notice of Amendment No. 1, 88 FR at 21730; see also NAMA Letter I and SIFMA Letter.

<sup>111</sup> Notice of Amendment No. 1, 88 FR at 21730.

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

#### IV. Summary of Comments Received to the Original Proposed Change and Amendment No. 1 and MSRB's Responses

##### A. Comments Received in Response to the Original Proposed Rule Change

The Commission received two comment letters<sup>121</sup> on the original proposed rule change, as well as response from the MSRB to the comment letters.<sup>122</sup>

##### 1. Definition of Testimonial

One commenter suggested that the term “testimonial” be defined within the rule language itself. The commenter wrote that, “While within a footnote in the Filing, endorsements are noted as being within the meaning of testimonial,” the MSRB does not fully explain what it “means by an endorsement in this context, which under the Investment Adviser Rule would consist of statements from persons other than a current client (but are not limited to past clients), or if/how it applies to municipal advisors.”<sup>123</sup> In response, the MSRB stated that it proposed, in Amendment No. 1, to specifically define the term “testimonial” for purposes of Rule G–40 to mean a statement of a person’s or entity’s experience concerning the municipal advisor or concerning the municipal advisory services rendered by the municipal advisor.<sup>124</sup> In addition, the MSRB noted that the proposed rule text would specifically provide that if a municipal advisor’s advertisement meets certain conditions, then a municipal advisor may, directly or indirectly, publish, circulate or distribute an advertisement which refers, directly or indirectly, to a testimonial.<sup>125</sup>

The MSRB responded that this not only addresses the comment requesting that Rule G–40 include a definition of the term “testimonial,” but also the commenter’s suggestion that the rule “include affirmative language that testimonials may be used if certain requirements are met.”<sup>126</sup>

##### 2. Non-Client Testimonials

Both commenters suggested that the proposal would promote further harmonization with Rule G–21, on advertising by brokers, dealers or municipal securities dealers, if municipal advisors were able to use

testimonials by third parties. Specifically, one commenter stated that non-client testimonials/endorsements should be specifically allowed and the rule should also discuss the requirements and parameters for testimonials/endorsements from other parties<sup>127</sup> and another discussed that municipal advisor testimonials by third parties should be permitted, in order to harmonize Rule G–40 with the Advisers Act as well as Rule G–21 covering brokers, dealers, and municipal securities dealers.<sup>128</sup>

The MSRB responded that it was amending the original proposed rule change to permit municipal advisors to use testimonials from any third party, whether a person or entity, subject to the conditions set forth in Amendment No. 1.<sup>129</sup> The MSRB explained, for example, that similar to IA Rule 206–4(1)9, an advertisement of a municipal advisor that includes a testimonial would need to include a disclosure indicating whether the testimonial is from a current client or from someone that is not a current client.<sup>130</sup> The MSRB added that it agreed with the Commission’s belief that this type of disclosure (in the context of testimonials pertaining to investment advisers) would provide important context for weighing the relevance of the testimonial.<sup>131</sup>

##### 3. Solicitor Municipal Advisors

Both commenters found the original proposed change to establish a different standard for the use of testimonials by solicitor municipal advisors to be confusing. Specifically, one commenter noted “[i]t is important for the Rule to be very clear on the requirements of municipal advisors (the vast majority of MAs) and solicitor municipal advisors, and separate the requirements for each”<sup>132</sup> and another noted “MSRB Rule G–40 will be unnecessarily complicated by including solicitor municipal advisors.”<sup>133</sup>

In response to these comments, the MSRB stated that Amendment No. 1 harmonized the criteria for the use of testimonials by all municipal advisors, no longer making a distinction between the use of testimonials by solicitor municipal advisors and non-solicitor municipal advisors.<sup>134</sup> As part of Amendment No. 1, the MSRB removed originally proposed language that would

have permitted, subject to certain conditions, a solicitor municipal advisor to pay more than \$1000 in total value in cash or non-cash compensation during the preceding 12 months for a testimonial. As a result, the MSRB noted that the proposed rule change would prohibit any municipal advisor from providing any compensation to a person or entity, directly or indirectly, of more than \$1000 in total value in cash or non-cash compensation during the preceding 12-months.<sup>135</sup>

##### 4. Other Clarifications to Rule Text and Design

One commenter also suggested additional clarifications to the proposed text and design of Rule G–40, suggesting that such changes would be helpful to facilitate compliance, especially for small municipal advisor firms.<sup>136</sup> For example, the commenter stated that the phrase “concerning the advice, analysis, report or other service rendered by the municipal advisor. . .” is too broad and could be problematic.<sup>137</sup> The MSRB responded that, to provide additional clarity and facilitate compliance, the MSRB had Amendment No. 1 remove that phrase and replace it with “concerning the municipal advisor or concerning the municipal advisory services rendered by the municipal advisor.”<sup>138</sup> Additionally, the commenter wrote that the language that a person providing a testimonial must have the knowledge and experience to form a valid opinion is too absolute and does not exist in the investment adviser rulemaking.<sup>139</sup> In response, the MSRB explained that while this standard may not exist in the Investment Adviser Marketing Rule, it does exist, to some degree, in Rule G–21.<sup>140</sup>

The MSRB further noted that it could be misleading if a municipal advisor’s advertisement included a testimonial from a person or entity that has no knowledge or experience to make a statement as to their experience with the municipal advisor or the municipal advisory services rendered by the municipal advisor.<sup>141</sup> To address the concern that the text of the rule could be interpreted as overly broad, the MSRB indicated that it proposed Amendment No. 1 to clarify that a municipal advisor may only use a testimonial if the person or entity providing the testimonial has the

<sup>121</sup> See NAMA Letter I and SIFMA Letter.

<sup>122</sup> See MSRB Letter I.

<sup>123</sup> NAMA Letter I at 1.

<sup>124</sup> MSRB Letter I at 2.

<sup>125</sup> *Id.*

<sup>126</sup> NAMA Letter I at 4; see also MSRB Letter I at 2.

<sup>127</sup> NAMA Letter I at 2.

<sup>128</sup> SIFMA Letter at 1.

<sup>129</sup> MSRB Letter I at 3.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> NAMA Letter I at 3.

<sup>133</sup> SIFMA Letter at 1.

<sup>134</sup> MSRB Letter I at 3.

<sup>135</sup> MSRB Letter I at 3–4.

<sup>136</sup> See NAMA Letter I.

<sup>137</sup> NAMA Letter I at 2.

<sup>138</sup> MSRB Letter I at 4.

<sup>139</sup> NAMA Letter I at 3.

<sup>140</sup> MSRB Letter I at 4.

<sup>141</sup> *Id.*



knowledge and experience to make a statement concerning their experience with the municipal advisor or with the municipal advisory services rendered by the municipal advisor.<sup>142</sup>

One commenter also noted that the disclosure required for a paid testimonial should be in the same size font and location as the testimonial and not placed in a footnote.<sup>143</sup> The MSRB responded that, in Amendment No. 1, Supplementary Material .03 to Rule G–40 would adopt a standard consistent with the views expressed by the SEC in adopting the Investment Adviser Marketing Rule.<sup>144</sup> Specifically, according to the MSRB, Amendment No. 1 clarified that, for a requisite disclosure in an advertisement to be clear and prominent (including a disclosure that a testimonial is a paid testimonial), the disclosure must be at least as prominent in the advertisement as the testimonial.<sup>145</sup> The MSRB added that disclosures should appear close to the associated testimonial statement with the same prominence so that the statement and disclosures are read at the same time, rather than referring the reader to somewhere else in the advertisement to view the disclosures.<sup>146</sup>

## 5. Social Media Guidance

Both commenters suggested that the MSRB’s “FAQs regarding the Use of Social Media under MSRB Rule G–21, on Advertising by Brokers, Dealers or Municipal Securities Dealers, and MSRB Rule G–40, on Advertising by Municipal Advisors” (“social media guidance”) be updated to reflect the proposed amendments to Rule G–40.<sup>147</sup>

The MSRB wrote that, in response to commenters, it drafted Amendment No. 1 to revise its social media guidance so that such guidance, as amended, incorporates the proposed amendments to Rule G–40, which would allow municipal advisors to use testimonials, subject to certain conditions, in their advertisements.<sup>148</sup> The MSRB explained that its current social media guidance notes that by paying for or soliciting positive comments from a third party, a municipal advisor would be deemed to be entangled with those comments, and the posting of those third-party comments on the municipal advisor’s social media page would be deemed to be an advertisement by the municipal

advisor that contains a testimonial.<sup>149</sup> The MSRB argued that the updated guidance would make clear that the advertisement containing a testimonial would be permissible so long as the advertisement meets the requirements of Rule G–40, including having the requisite disclosures.<sup>150</sup> The MSRB also noted that, in further response to comments, the updated guidance would make clear that if a municipal advisor did not pay, directly or indirectly, for a testimonial, but liked, shared, or commented on a post from a third party, the municipal advisor would be deemed to have adopted those comments and the posting of those third-party comments on the municipal advisor’s social media page would be deemed an advertisement that contains a testimonial.<sup>151</sup> The MSRB explained that, similarly, the advertisement containing a testimonial would be permissible so long as the advertisement meets the requirements of Rule G–40, including having the requisite disclosures.<sup>152</sup>

One commenter also requested additional amendments to the social media guidance, and noted that technology and social media have changed dramatically over the past few years, and SIFMA members feel it would be helpful for the MSRB to review the FAQs in light of these changes and the proposed amendments to MSRB Rule G–40.<sup>153</sup> The MSRB responded that in initially developing its social media guidance, the MSRB’s goal was to align the FAQs with the social media guidance published by the SEC and FINRA, and not to create unnecessary inconsistencies between its guidance and similar guidance issued by other regulators that may be applicable to other aspects of the regulated entity’s business.<sup>154</sup> The MSRB also replied that it believes that its social media guidance remains appropriately aligned with other regulators, and therefore, other than amendments to reflect proposed amendments to Rule G–40, the MSRB is not otherwise making substantive changes to its social media guidance.<sup>155</sup>

The MSRB also noted that in establishing Rule G–40, it developed compliance resources to help facilitate compliance<sup>156</sup> and will undertake a

review of these compliance resources to ensure that they undergo an update to reflect any amendments to Rule G–40.<sup>157</sup> In doing so, the MSRB stated that it expects to engage with stakeholders in some capacity (e.g., via discussions with the MSRB’s Compliance Advisory Group and/or discussions with key stakeholders) to help ensure that the resources meet the needs of municipal advisors.<sup>158</sup>

## B. Comment Received in Response to Amendment No. 1

The Commission received one comment letter on Amendment No. 1,<sup>159</sup> as well as response from the MSRB to this comment letter.<sup>160</sup> The commenter expressed support for Amendment No. 1, noting appreciation for the MSRB’s work in addressing concerns initially raised in response to the original proposed rule change.<sup>161</sup> The commenter also requested that “the SEC approve the filing at its earliest convenience.”<sup>162</sup> Additionally, the commenter encouraged the MSRB to work with market participants and look for ways to provide streamlined guidance that can be easily and readily utilized by municipal advisors.<sup>163</sup> The MSRB responded to the comment that it appreciated the continued participation of commenters in the rulemaking process, and reiterated its commitment in its earlier response letter that the MSRB will continue to engage with stakeholders to support the implementation of the amendments to help municipal advisors understand the applicable obligations and facilitate compliance.<sup>164</sup>

## V. Discussion of Commission’s Findings

The Commission has carefully considered the proposed rule change, the comment letters received, and the MSRB’s responses thereto. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the Commission believes that the proposed rule change is consistent with the provisions of section 15B(b)(2)(C), which provides, in

on Use of Municipal Advisory Client Lists and Case Studies [effective Aug. 23, 2019], Assessing Supervision of Municipal Advisor Advertising Regulations. MSRB Letter I at 6.

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> See NAMA Letter II.

<sup>146</sup> See MSRB Letter II.

<sup>147</sup> See NAMA Letter II.

<sup>148</sup> *Id.* at 2.

<sup>149</sup> *Id.*

<sup>150</sup> MSRB Letter II at 2.

<sup>142</sup> *Id.*

<sup>143</sup> NAMA Letter I at 3.

<sup>144</sup> MSRB Letter I at 4; see also SEC 2020 Adopting Release, 86 FR at 13048.

<sup>145</sup> MSRB Letter I at 4–5.

<sup>146</sup> *Id.* at 5.

<sup>147</sup> See NAMA Letter I and SIFMA Letter.

<sup>148</sup> MSRB Letter I at 5.

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> SIFMA Letter at 2.

<sup>154</sup> MSRB Letter I at 6.

<sup>155</sup> *Id.*

<sup>156</sup> Application of the Content Standards to Advertisements by Municipal Advisors under MSRB Rule G–40 [effective Aug. 23, 2019], FAQs



part, that the MSRB's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.<sup>165</sup> The Commission finds that the proposed rule change will: (i) prevent fraudulent and manipulative acts and practices; (ii) protect investors, municipal entities, obligated persons, and the public interest; (iii) promote just and equitable principles of trade; and (iv) foster cooperation and coordination with persons engaged in regulating transactions in municipal securities.

#### *A. Prevent Fraudulent and Manipulative Acts and Practices*

The Commission finds that the proposed rule change would help prevent fraudulent and manipulative acts and practices. The proposed rule change does not alter the standards that advertisements be based on the principles of fair dealing and good faith, be fair and balanced, and provide a sound basis for evaluating the facts and that the advertisements do not include any false, exaggerated, unwarranted, promissory or misleading statement or claim. As a result, permitting municipal advisors to use only testimonials that are consistent with these standards would help ensure that Rule G-40 continues to prevent fraudulent and manipulative acts and practices. The Commission further believes that the proposed amendment to Rule G-8 (with the related application of existing MSRB Rule G-9 on records preservation) would help municipal advisors create an audit trail for compliance and, in turn, would assist examination and enforcement authorities in their examination for compliance with Rule G-40, which would further help prevent fraudulent and manipulative acts and practices.

#### *B. Protect Investors, Municipal Entities, Obligated Persons, and the Public Interest*

The Commission finds that the proposed Rule G-40 also would protect municipal entities, obligated persons and the public interest. It would do so

by ensuring that recipients of any advertisement containing a testimonial have the necessary context to evaluate the testimonial because the proposed rule change would only permit the use of testimonials if certain conditions are met, including that specified disclosures are made. Municipal entities and obligated persons are the likely audience for municipal advisors' testimonials. As such, the requisite disclosures would help ensure that the proposed rule change would further the protection of municipal entities, obligated persons, and the public interest.

The Commission further notes that the amendments to Rule G-40 are intended to align Rule G-40's provision governing the use of testimonials by municipal advisors to the analogous requirements under the SEC's Modernized IA Marketing Rule, by prohibiting the use of testimonials in an advertisement unless a municipal advisor complies with disclosure and oversight provisions. Therefore, the Commission finds that the proposed rule change's associated requirements for testimonials (like the Modernized IA Marketing Rule) are meant to protect potential clients from misleading advertisements. In this way, the Commission finds that the proposed amendments to Rule G-40 would enhance protections for potential recipients of municipal advisor testimonials, including issuers, obligated persons, and other market participants.

#### *C. Promote Just and Equitable Principles of Trade*

The Commission also believes that the proposed rule change would promote just and equitable principles of trade by aligning the advertising rule for municipal advisors, to the extent practicable, with the advertising rules for dealers and for investment advisers. This alignment serves to provide regulatory consistency for entities that may be dually registered (e.g., as a municipal advisor and an investment adviser). By establishing a consistent regulatory standard for advertising across dealers, investment advisers, and municipal advisors, the Commission finds that the proposed rule change promotes more just and equitable principles of trade among these different market participants.

#### *D. Foster Cooperation and Coordination With Persons Engaged in Regulating Transactions in Municipal Securities*

Furthermore, the Commission believes the proposed rule change would foster coordination with persons

engaged in regulating transactions in municipal securities. The amendments to Rule G-40 would more tightly align the content standards for Rule G-40 with the content standards of the SEC's Modernized IA Marketing Rule.<sup>166</sup> The proposed change thereby provides a more uniform standard for regulated entities subject to a fiduciary standard (i.e., investment advisors and municipal advisors). This uniformity allows the examining authorities to coordinate examinations of municipal advisors and municipal advisors dually registered as investment advisors more effectively. Moreover, the proposed rule change will allow examiners to compare content standard practices across all municipal advisors (regardless of dually register status) more clearly. As such, the Commission finds that the proposed rule change serves to foster greater cooperation and coordination among the examining authorities responsible for ensuring compliance with MSRB rules.

Section 15B(b)(2)(C) of the Act<sup>167</sup> requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In approving the proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation.<sup>168</sup>

The Commission does not believe the proposed rule change to amend Rule G-40 and Rule G-8 would impose any new burden on competition or have an impact on competition, as the proposed rule change would apply a similar regulatory regime to all municipal advisors. Further, the Commission believes that the proposed changes to Rules G-40 and G-8 would promote regulatory consistency and would benefit municipal advisors by removing the prohibition that an advertisement does not refer, directly or indirectly, to any testimonial of any kind concerning the municipal advisors. By aligning MSRB rules with the SEC's Modernized IA Marketing Rule, as well as Rule G-21, the proposed amendments to Rules G-40 and G-8 would also improve efficiency by providing regulatory consistency for regulated entities dually registered as a dealer and as a municipal advisor, or as an investment adviser registered with the SEC and as a municipal advisor.

The Commission also finds that the proposed rule change will not hinder capital formation, as the proposed amendments to Rule G-40 and Rule G-

<sup>166</sup> Notice, 88 FR at 9585-86.

<sup>167</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>168</sup> 15 U.S.C. 78c(f).

<sup>165</sup> 15 U.S.C. 78o-4(b)(2)(C).

8 would be applicable to all municipal advisors. As such, the Commission finds that the proposed rule change would help ensure that all regulated entities dually registered (as a dealer and as a municipal advisor, or as an investment adviser with the SEC and as a municipal advisor), are subject to consistent standards on the use of testimonials in advertisements. The Commission finds that the proposed amendments to Rules G-40 and G-8 would therefore promote efficiency in the marketplace. Therefore, the Commission concludes that the amendments to Rule G-40 and Rule G-8 would not negatively affect competition and capital formation.

## VI. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Exchange Act,<sup>169</sup> that the proposed rule change (SR-MSRB-2023-01) be, and hereby is, approved.

For the Commission, by the Office of Municipal Securities, pursuant to delegated authority.<sup>170</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

[FR Doc. 2023-10468 Filed 5-16-23; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97489; File No. SR-ICC-2023-003]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to British Pounds Sterling as Client-Related Margin

May 11, 2023.

## I. Introduction

On March 13, 2023, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission

(“Commission”), pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to accept British Pounds Sterling in satisfaction of client-related margin requirements. The proposed rule change was published for comment in the **Federal Register** on March 30, 2023.<sup>3</sup> The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

## II. Description of the Proposed Rule Change

### A. Background

ICC is registered with the Commission as a clearing agency for the purpose of clearing CDS contracts. ICC requires that its Clearing Participants post margin to collateralize their credit exposure to ICC, based on the size and risk of their cleared positions. On a daily basis, ICC determines margin requirements (i) for a Clearing Participant’s own cleared positions (referred to as “house” positions) and (ii) for the cleared positions of its clients.

The proposed rule change relates to the second category, margin requirements for the cleared positions of clients. Specifically, the proposed rule change would allow Clearing Participants to use cash British pounds sterling (“GBP”) to satisfy client-related margin requirements. Currently, a Clearing Participant may meet client-related margin requirements with US dollars, Euros, or US Treasuries. ICC previously accepted GBP in satisfaction of client-related margin requirements, but it revoked that option in 2017.<sup>4</sup> ICC did so because no Clearing Participants posted GBP at that time, and ICC considered GBP a less liquid resource due to the potential need to convert it to either US dollars or Euros.

ICC has decided to once again accept GBP in satisfaction of client-related margin requirements. ICC is doing so in response to feedback from customers. Several UK and EU market participants have asked ICC for the ability to post GBP in addition to the asset types currently accepted by ICC.

In addition to satisfying the request of these customers, ICC believes that accepting GBP would overall better serve other UK and EU-based market participants. Such participants may be seeking an alternative CDS clearing service, given that ICE Clear Europe is intending to close its UK-based CDS clearing service in October of this year.<sup>5</sup>

To carry out this change, ICC would amend the ICE Clear Credit Rulebook (“ICC Rules”) and the ICE Clear Credit Treasury Operations Policies & Procedures (“Treasury Policy”), as described in detail below.<sup>6</sup>

### B. ICC Rules

Currently, Schedule 401 of the ICC Rules sets out the collateral that ICC accepts to satisfy client-related margin requirements. Schedule 401 describes this collateral in terms of the CDS contract for which the margin is required. Specifically, Schedule 401 categorizes the collateral as that which ICC accepts for client-related US-dollar denominated products and client-related Euro denominated products.<sup>7</sup> For each of those products, Schedule 401 requires that a Clearing Participant meet a certain percentage of the relevant margin requirement in particular collateral. Below is what Schedule 401 currently provides for client-related margin.

Client-Related Initial Margin Liquidity Requirements

Client-Related US Dollar Denominated Product Requirement

Asset Type	Minimum Percentage of Requirement
<b>US Dollar Denominated Assets</b> (US Cash and/or US Treasuries)	65%
<b>All Eligible Collateral</b> (US Cash, Euro Cash, and/or US Treasuries)	+35% (for a total of 100%)

<sup>169</sup> 15 U.S.C. 78s(b)(2).

<sup>170</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to British Pounds Sterling as Client-Related Margin; Exchange Act Release No. 97196 (March 24, 2023), 88 FR 19183 (March 30, 2023) (File No. SR-ICC-2023-003) (“Notice”).

<sup>4</sup> See Securities Exchange Act Release No. 81037 (June 28, 2017), 82 FR 31121 (July 5, 2017) (SR-ICC-2017-010) (notice). The Commission subsequently approved ICC’s proposal to remove the eligibility of GBP cash (as well as certain other currencies) as acceptable collateral. See Securities Exchange Act Release No. 81386 (Aug. 14, 2017), 82 FR 39484 (Aug. 18, 2017) (SR-ICC-2017-010).

<sup>5</sup> See Circular C22/109 Cessation of clearing of CDS Contracts: Postponement of Withdrawal Date,

available at [https://www.ice.com/publicdocs/clear\\_europe/circulars/C22109.pdf](https://www.ice.com/publicdocs/clear_europe/circulars/C22109.pdf).

<sup>6</sup> Capitalized terms not otherwise defined herein have the meanings provided to them in the Rules or Treasury Policy, as applicable.

<sup>7</sup> Currently, ICC only clears US-dollar denominated and Euro denominated products, and the proposed rule change would not alter this.

Client-Related Euro Denominated  
Product Requirement

Asset Type	Minimum Percentage of Requirement
<b>All Eligible Collateral</b> (US Cash, Euro Cash, and/or US Treasuries)	100%

The proposed rule change would update Schedule 401 by adding GBP to the list of “all eligible collateral.” In addition, ICC would modify the client-related margin requirements set forth in Schedule 401 of the ICC Rules as follows. For US dollar denominated products, ICC would change (i) the percentage of the requirement that must be met in US dollars and US Treasuries

from 65% to 45% and (ii) the percentage that may be met in any eligible collateral (US dollars, Euros, GBP, and US Treasuries) from 35% to 55%. For Euro denominated products, ICC would change (i) the minimum percentage of the requirement that must be met in US dollars, Euros, or US Treasuries from 100% to 45% and (ii) add a new category that permits the remaining

55% of the requirement to be met in any eligible collateral (US dollars, Euros, GBP, and US Treasuries).

Client-Related Initial Margin Liquidity Requirements (as Amended)

Client-Related US Dollar Denominated Product Requirement

Asset Type	Minimum Percentage of Requirement
<b>US Dollar Denominated Assets</b> (US Cash and/or US Treasuries)	<del>65%</del> <u>45%</u>
<b>All Eligible Collateral</b> (US Cash, Euro Cash, <u>British Pound Sterling Cash</u> , and/or US Treasuries)	<del>+35%</del> <u>55%</u> (for a total of 100%)

Client-Related Euro Denominated  
Product Requirement

Asset Type	Minimum Percentage of Requirement
<del>All</del> <b>Eligible Collateral</b> (US Cash, Euro Cash, and/or US Treasuries)	<del>100%</del> <u>45%</u>
<b>All Eligible Collateral</b> (US Cash, Euro Cash, <u>British Pound Sterling Cash</u> , and/or US Treasuries)	<u>+55%</u> (for a total of 100%)

Thus, ICC would amend Schedule 401 of the ICC Rules to add GBP as Eligible Collateral for client-related margin requirements and modify the percentages for both US-dollar denominated products and Euro denominated products. With respect to these changes in particular, the Commission notes that ICC would accept a smaller percentage of US dollars for a client-related margin requirement relating to a US-dollar denominated product than it does currently (65% versus 45%). Similarly, ICC would accept a smaller percentage

of US dollars/Euro/Treasuries for a client-related margin requirement relating to a US-dollar denominated product than it does currently (100% versus 45%). Because ICC does not treat any collateral posted for clients as a liquidity resource available in the event of a default, the Commission does not believe that the changes in percentages or acceptance of GBP will affect ICC’s liquidity resources.<sup>8</sup> Moreover, as ICC

<sup>8</sup> As explained in its Liquidity Risk Management Framework, ICC only uses client margin deposits in case of a client default, and when ICC conducts

explained, the proposed modified thresholds reflect the fact that only the first-day liquidity needs (measured as 45% of requirements) must be met in a form of collateral for which ICC maintains committed repurchase agreements and committed FX facilities.<sup>9</sup> The remaining 55% can be met with any type of accepted collateral. The Commission therefore believes that with the proposed modified thresholds,

stress testing of its liquidity resources, it assumes that no client margin deposits are available.

<sup>9</sup> Notice, 88 FR at 19184.

ICC continues to maintain a conservative approach by directly requiring that client-related first-day liquidity needs (*i.e.*, 45% of Initial Margin requirements) are met in the forms of permitted collateral for which either collateral transformations are not necessary, or committed agreements are in place to provide all necessary immediate liquidity.

### C. Treasury Policy

The overall purpose of the ICC Treasury Policy is to articulate the policies and procedures used by the ICC Treasury Department. ICC's Treasury manages ICC's cash and collateral, including the assets that Clearing Participants transfer to ICC to satisfy client-related margin requirements. The Treasury Policy therefore would apply to GBP provided by Clearing Participants to satisfy client-related margin requirements. Accordingly, ICC would modify the Treasury Policy to incorporate GBP, as discussed below.

#### i. Section III, Funds Management

ICC first would modify Section III of the Policy, which concerns ICC's funds management. Section III explains the types of funds in which ICC's Treasury invests cash and collateral and ICC's overall strategy with respect to such investments. For example, with respect to Euros posted by Clearing Participants, Section III currently provides that Treasury may, among other things, hold such cash in bank deposits or allocate it to outside investment managers. The proposed rule change would add to Section III a similar explanation of ICC's strategy with respect to cash posted by Clearing Participants in GBP that is Client Margin. With respect to those funds, ICC would not invest such GBP but would instead hold it in bank deposits.

#### ii. Section IV, Cash Management

ICC next would update Section IV of the Policy, which explains how ICC moves and transfers cash in the conduct of its business. Section IV, among other things, describes how ICC monitors the daily collection of margin to ensure the timely receipt of payment for settlement, including the deadlines for the collection of margin and for the withdrawal or substitution of collateral. Currently, ICC requires that Clearing Participants notify it of withdrawals or substitutions involving Euros by 9:00 a.m. ET. The proposed rule change would not alter this deadline, but it would add GBP to the existing 9:00 a.m. ET deadline. Thus, under the proposed rule change, Clearing Participants would be required to notify ICC of

withdrawals or substitutions involving Euro cash and GBP collateral by 9:00 a.m. ET.

#### iii. Section V, Collateral Valuation

ICC also would update Section V of the Policy, which explains the type of assets that ICC accepts as collateral and how ICC custodies Clearing Participants' collateral. With respect to the assets that ICC accepts as collateral, Section V of the Policy explains that Clearing Participants are generally required to post assets as collateral that meet ICC's standards for acceptable collateral. Section V also lists the assets that ICC considers to be acceptable collateral. Currently, as discussed above, ICC accepts US dollars, Euros, and US Treasuries. The proposed rule change would add GBP to this list, with the caveat that ICC accepts it as collateral for client positions only (as opposed to Clearing Participants' house positions).

With respect to the assets that ICC accepts as collateral, ICC prices those assets to determine their value (and therefore how much of the margin requirement those assets satisfy). ICC also discounts the value of the collateral to account for market risks and currency risks (a process known as haircutting). Section V describes ICC's process for valuing each of the types of collateral that it accepts. The proposed rule change would update this valuation process to include GBP. The process for valuing GBP would be as follows.

ICC would first convert the value of the GBP to an amount in US dollars. ICC would then reduce this US-dollar value using the currency haircut it has established for GBP. ICC would then apply this reduced value to determine how much of the margin requirement the GBP collateral satisfies.

If the GBP is being used to satisfy a margin requirement for a Euro-denominated product, ICC would take one additional step. Margin requirements for Euro-denominated products are expressed in Euros. Thus, to determine how much of this margin requirement the GBP collateral satisfies, ICC would convert the Euro margin requirement to a US-dollar value. This is needed because, as discussed above, ICC would convert the value of the GBP collateral to US dollars. In converting the Euro margin requirement to a US-dollar value, ICC would increase the value by the currency haircut it has established for Euro. ICC would take this additional step because, as a default, ICC's treasury system would have already haircut the Euro value in converting it to US dollars. Thus, increasing the value by the haircut

ensures that, when determining how much of the margin requirement the GBP collateral satisfies, ICC is considering the full amount of the margin requirement (rather than only the amount post-haircut).

#### iv. Section VI, Treasury Management for Client Business

Finally, the proposed rule change would update Section VI of the Policy. Section VI specifically describes how ICC manages margin requirements associated with client trades. Among other things, Section VI describes the types of collateral that ICC accepts to satisfy a client-related margin requirement. Currently, Section VI lists US dollars, Euros, and US government securities as collateral eligible for client margin, and explains that these assets are in line with the current eligible collateral for house-related margin requirements. The proposed rule change would add GBP to this list, and also would delete the explanation that these assets are in line with the current eligible collateral for House margin. This particular explanation would no longer be correct, given that ICC would accept GBP for client-related margin requirements but not for house-related margin requirements.

Section VI of the Policy also explains the percentages of these assets that a Clearing Participant can use to satisfy a particular client-related margin requirement. This information mirrors Schedule 401 of ICC's rules, discussed above. Thus, the proposed rule change would amend this description to match the revisions to Schedule 401 described above. For a client-related margin requirement relating to a US-dollar denominated product, a Clearing Participant would be required to meet (i) 45% of the requirement with US dollars and/or US Treasuries and (ii) the remaining 55% with US dollars, Euros, US Treasuries, and/or GBP. For a client-related margin requirement relating to a Euro denominated product, a Clearing Participant would be required to meet (i) 45% of the requirement with US dollars, Euros, and/or US Treasuries and (ii) the remaining 55% with US dollars, Euros, US Treasuries, and/or GBP.

With respect to these changes in particular, the Commission notes that ICC would accept a smaller percentage of US dollars/Treasuries for a client-related margin requirement relating to a US-dollar denominated product than it does currently (65% versus 45%). Similarly, ICC would accept a smaller percentage of US dollars/Euros/Treasuries for a client-related margin requirement relating to a Euro denominated product than it does

currently (100% versus 45%). Because ICC does not treat any collateral posted for clients as a liquidity resource available in the event of a default, the Commission does not believe that the changes in percentages or acceptance of GBP will affect ICC's liquidity resources.<sup>10</sup> Moreover, as discussed above, the Commission believes that with the proposed modified thresholds, ICC would continue to maintain a conservative approach by directly requiring that client-related first-day liquidity needs (*i.e.*, 45% of Initial Margin requirements) are met in the forms of permitted collateral for which either collateral transformations are not necessary, or committed agreements are in place to provide all necessary immediate liquidity.

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.<sup>11</sup> For the reasons discussed below, the Commission finds that the proposed rule change is consistent with section 17A(b)(3)(F)<sup>12</sup> of the Act and Rule 17Ad-22(e)(5)<sup>13</sup> thereunder.

#### A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>14</sup> Based on its review of the record, and for the reasons discussed below, the Commission believes the proposed changes to ICC's Rules and the Treasury Policy are consistent with the promotion of the prompt and accurate clearance and settlement of securities transactions.

As discussed above, the proposed revisions to the ICC Rules and Treasury Policy would allow Clearing Participants to post GBP to satisfy client-related margin requirements. The Commission believes that these changes, by expanding the collateral that clients could provide to Clearing Participants to

satisfy margin requirements, would encourage clients to clear their positions at ICC. The Commission believes this could be especially true for clients that are based in the UK or otherwise have reserves of GBP. Thus, the Commission believes this aspect of the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions among clients.

Moreover, as noted above, ICC requires that Clearing Participants satisfy a certain percentage of a client-related margin requirement in US dollars and/or Euros, as applicable. The proposed rule change would lower the minimum percentage that a Clearing Participant must meet in US dollars and/or Euros. The proposed rule change also would allow Clearing Participants to use GBP to satisfy the non-US dollar/Euros portion. Again, the Commission believes these changes would encourage clients to clear transactions at ICC, especially those who may have reserves of GBP. The Commission further believes that doing so would not materially affect ICC's available liquidity resources in case of a default because, consistent with its current practice, ICC would not treat the GBP posted to satisfy a client's margin requirement as a liquidity resource available in the event of a default. As discussed above, ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available. Moreover, as discussed above, ICC would continue to maintain a conservative approach by directly requiring that client-related first-day liquidity needs (*i.e.*, 45% of Initial Margin requirements) are met in the forms of permitted collateral for which either collateral transformations are not necessary, or committed agreements are in place to provide all necessary immediate liquidity.

The Commission therefore finds that the proposed revisions to the ICC Rules and Treasury Policy are designed to promote the prompt and accurate settlement of securities transactions, derivatives agreements, contracts, and transactions for which ICC is responsible, consistent with section 17A(b)(3)(F) of the Exchange Act.<sup>15</sup>

#### B. Consistency With Rule 17Ad-22(e)(5) Under the Act

Rule 17Ad-22(e)(5) requires that ICC, among other things, establish, implement, maintain and enforce written policies and procedures reasonably designed to limit the assets

it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits.<sup>16</sup> As discussed above, the proposed rule change would allow Clearing Participants to use GBP to satisfy client-related margin requirements. The proposed rule change also would lower the minimum percentage of a client-related margin requirement that a Clearing Participant must meet in US dollars and/or Euros. The proposed rule change would not alter ICC's current collateral haircuts or concentration limits. Indeed, as discussed above, ICC would convert the GBP posted as collateral to a US dollar value and then reduce the US dollar value using the GBP currency haircut.

Moreover, consistent with its current practice, ICC would not treat the GBP posted to satisfy a client's margin requirement as a liquidity resource available in the event of a Clearing Participant's default. ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available.

For these reasons, the Commission believes that ICC would continue to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks, and set and enforce appropriately conservative haircuts and concentration limits while accepting GBP as collateral, consistent with Rule 17Ad-22(e)(5).<sup>17</sup>

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with section 17A(b)(3)(F)<sup>18</sup> of the Act and Rule 17Ad-22(e)(5)<sup>19</sup> thereunder.

*It is therefore ordered* pursuant to section 19(b)(2) of the Act<sup>20</sup> that the proposed rule change (SR-ICC-2023-003), be, and hereby is, approved.<sup>21</sup>

<sup>10</sup> As explained in its Liquidity Risk Management Framework, ICC only uses client margin deposits in case of a client default, and when ICC conducts stress testing of its liquidity resources, it assumes that no client margin deposits are available.

<sup>11</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>13</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>14</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>15</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>16</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>17</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>18</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>19</sup> 17 CFR 240.17Ad-22(e)(5).

<sup>20</sup> 15 U.S.C. 78s(b)(2).

<sup>21</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023–10472 Filed 5–16–23; 8:45 am]

BILLING CODE 8011–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17842 and #17843;  
CALIFORNIA Disaster Number CA–00376]**

### Presidential Declaration Amendment of a Major Disaster for the State of California

**AGENCY:** Small Business Administration.

**ACTION:** Amendment 3.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of California (FEMA–4699–DR), dated 04/03/2023.

*Incident:* Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

*Incident Period:* 02/21/2023 and continuing.

**DATES:** Issued on 05/11/2023.

*Physical Loan Application Deadline Date:* 06/05/2023.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/03/2024.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of California, dated 04/03/2023, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 06/05/2023.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Francisco Sánchez, Jr.,**

*Associate Administrator, Office of Disaster Recovery & Resilience.*

[FR Doc. 2023–10458 Filed 5–16–23; 8:45 am]

BILLING CODE 8026–09–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17852 and #17853;  
CALIFORNIA Disaster Number CA–00380]**

### Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of California

**AGENCY:** Small Business Administration.

**ACTION:** Amendment 3.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of California (FEMA–4699–DR), dated 04/03/2023.

*Incident:* Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

*Incident Period:* 02/21/2023 and continuing.

**DATES:** Issued on 05/11/2023.

*Physical Loan Application Deadline Date:* 06/05/2023.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/03/2024.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of California, dated 04/03/2023, is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster to 06/05/2023.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Francisco Sánchez, Jr.,**

*Associate Administrator, Office of Disaster Recovery & Resilience.*

[FR Doc. 2023–10459 Filed 5–16–23; 8:45 am]

BILLING CODE 8026–09–P

## DEPARTMENT OF STATE

**[Public Notice: 12013]**

### Privacy Act of 1974; System of Records

**AGENCY:** Department of State.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** The information collected and maintained in the Cryptographic

Clearance Records system is used by the Bureau of Information Resource Management in the Department of State to determine an employee's eligibility for cryptographic clearance and to protect cryptographic duties and sensitive information from unauthorized disclosure.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice is effective upon publication, with the exception of the routine uses (a) and (b) that are subject to a 30-day period during which interested persons may submit comments to the Department. Please submit any comments by June 16, 2023.

**ADDRESSES:** Questions can be submitted by mail, email, or by calling Eric F. Stein, the Senior Agency Official for Privacy on (202) 485–2051. If mail, please write to: U.S. Department of State; Office of Global Information Systems, A/GIS; Room 4534, 2201 C St. NW, Washington, DC 20520. If email, please address the email to the Senior Agency Official for Privacy, Eric F. Stein, at [Privacy@state.gov](mailto:Privacy@state.gov). Please write "Cryptographic Clearance Records, State-07" on the envelope or the subject line of your email.

**FOR FURTHER INFORMATION CONTACT:** Eric F. Stein, Senior Agency Official for Privacy; U.S. Department of State; Office of Global Information Services, A/GIS; Room 4534, 2201 C St. NW, Washington, DC 20520 or by calling (202) 485–2051.

**SUPPLEMENTARY INFORMATION:** The purpose of this modification is to make substantive and administrative changes to the previously published notice. This notice modifies the following sections: Summary, Dates, Addresses, For Further Information Contact, Supplementary Information, System Location(s), Categories of Records in the System, Policies and Procedures for Retrieval of Records, Routine Uses of Records Maintained in the System, Policies and Practices for Storage of Records, Policies and Practices for Retention and Disposal of Records, and Administrative, Technical, and Physical Safeguards. In addition, this notice makes administrative updates to the following sections: Record Access Procedures, Notification Procedures, and History. This notice is being modified to reflect new OMB guidance, new routine uses and categories of records, updated contact information, and a notice publication history.

#### SYSTEM NAME AND NUMBER:

Cryptographic Clearance Records, State-07.

<sup>22</sup> 17 CFR 200.30–3(a)(12).

**SECURITY CLASSIFICATION:**

Unclassified and Classified.

**SYSTEM LOCATION:**

Department of State, ESOC West, Building 17, 1 Denver Federal Center, Denver, Colorado 80225.

**SYSTEM MANAGER(S):**

Chief, Cryptographic Services Branch, Systems Integrity Division, Bureau of Information Resource Management, SA-07B, 7958 Angus Ct., Springfield, VA 22153. The system manager can be reached on [cryptoaccesspgm@state.gov](mailto:cryptoaccesspgm@state.gov).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

- 22 U.S.C. 4802 (Diplomatic Security) (Responsibility of Secretary of State);
- 5 U.S.C. 301 (Management of Executive Agencies);
- 5 U.S.C. chapter 73 (Suitability, Security, and Conduct);
- Executive Order 13526 (Classified National Security Information);
- CNSS Policy No. 3, dated October 2007 (National Policy on Granting Access to U.S. Classified Cryptographic Information);
- Executive Order 12968, as amended (Access to Classified Information);
- Executive Order 13467, as amended (Reforming Processes Related to Suitability for Government Employment, Fitness, for Contractor Employees, and Eligibility for Access to Classified National Security Information); and
- Security Executive Agent Directive 4 (National Security Adjudicative Guidelines).

**PURPOSE(S) OF THE SYSTEM:**

The information collected and maintained in the Cryptographic Clearance Records system is used by the Bureau of Information Resource Management in the Department of State to determine an employee's eligibility for cryptographic clearance and to protect cryptographic duties and sensitive information from unauthorized disclosure.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All current Civil Service and Foreign Service direct hire employees of the Department of State and Agency for International Development who have applied for cryptographic clearances as well as those who have already received cryptographic clearance. The Privacy Act defines an individual at 5 U.S.C. 552a(a)(2) as a United States citizen or lawful permanent resident.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains employee name, last four digits of social security number

(SSN), date of birth (DOB), Foreign Service (FS) HR ID number, FS skill code, position held by an employee, correspondence from the Bureau of Diplomatic Security concerning an individual's clearance, and date the clearance was granted or denied.

**RECORD SOURCE CATEGORIES:**

These records contain information obtained from the individual who is the subject of these records and Cryptographic Services Branch personnel.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The information in Cryptographic Clearance Records system may be disclosed to the following:

(a.) Appropriate agencies, entities, and persons when (1) the Department of State suspects or has confirmed that there has been a breach of the system of records; (2) the Department of State has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department of State (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department of State efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(b.) Another Federal agency or Federal entity, when the Department of State determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

The Department of State periodically publishes in the **Federal Register** its standard routine uses that apply to all of its Privacy Act systems of records. These notices appear in the form of a Prefatory Statement (published in Volume 73, Number 136, Public Notice 6290, on July 8 15, 2008). All these standard routine uses apply to Cryptographic Clearance Records, State-07.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are stored in hard copy and magnetic computer media. A description of standard Department of

State policies concerning storage of electronic records is found here <https://fam.state.gov/FAM/05FAM/05FAM0440.html>.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by individual name, last four digits of SSN, DOB, and Foreign Service (FS) HR ID number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retired and destroyed in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA) and outlined here <https://foia.state.gov/Learn/RecordsDisposition.aspx>. The retention period for records maintained in the system is twenty years. More specific information may be obtained by writing to the following address: U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B-266; Washington, DC 20520.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

All users are given cyber security awareness training which covers the procedures for handling Sensitive but Unclassified (SBU) information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Department OpenNet users are required to take the Foreign Service Institute distance learning course instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly. Before being granted access to Cryptographic Clearance Records, a user must first be granted access to the Department of State computer system.

All Department of State employees and contractors with authorized access to records maintained in this system of records have undergone a thorough background security investigation. Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

**RECORD ACCESS PROCEDURES:**

Individuals who wish to gain access to or amend records pertaining to themselves should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B-266; Washington, DC 20520. The individual must specify that he or she wishes the Cryptographic Clearance Records to be checked. At a minimum, the individual must include: full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Cryptographic Clearance Records include records pertaining to him or her. Detailed instructions on Department of State procedures for accessing and amending records can be found on the Department's FOIA website at <https://foia.state.gov/Request/Guide.aspx>.

**CONTESTING RECORD PROCEDURES:**

Individuals who wish to contest record procedures should write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B-266; Washington, DC 20520.

**NOTIFICATION PROCEDURES:**

Individuals who have reason to believe that this system of records may contain information pertaining to them may write to U.S. Department of State; Director, Office of Information Programs and Services; A/GIS/IPS; 2201 C Street NW, Room B-266; Washington, DC 20520. The individual must specify that he/she wishes the Cryptographic Clearance Records to be checked. At a minimum, the individual must include: full name (including maiden name, if appropriate) and any other names used; current mailing address and zip code; date and place of birth; notarized signature or statement under penalty of perjury; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Cryptographic Clearance Records system include records pertaining to him or her.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

Previously published in the **Federal Register** on August 27, 2010 in Volume 75, Number 166, Public Notice 7132.

**Eric F. Stein,**

*Deputy Assistant Secretary, Global Information Services (A/GIS), U.S. Department of State.*

[FR Doc. 2023-10532 Filed 5-16-23; 8:45 am]

**BILLING CODE 4710-AD-P**

**DEPARTMENT OF STATE**

[Public Notice: 12072]

**Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Tree and Serpent: Early Buddhist Art in India, 200 B.C.E.–400 C.E.” Exhibition**

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Tree and Serpent: Early Buddhist Art in India, 200 B.C.E.–400 C.E.” at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28,

2000, and Delegation of Authority No. 523 of December 22, 2021.

**Scott Weinhold,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2023-10441 Filed 5-16-23; 8:45 am]

**BILLING CODE 4710-05-P**

**DEPARTMENT OF STATE**

[Public Notice: 12074]

**Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: “Kore Statue: A Masterpiece of the Acropolis Museum in Boston” Exhibition**

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition “Kore Statue: A Masterpiece of the Acropolis Museum in Boston” at the Museum of Fine Arts, Boston, in Boston, Massachusetts, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

**Scott Weinhold,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2023-10455 Filed 5-16-23; 8:45 am]

**BILLING CODE 4710-05-P**



**DEPARTMENT OF STATE****[Public Notice: 12071]****United States Ocean Acidification Action Plan Call for Public Comment****ACTION:** Notice and request for comment.

**SUMMARY:** The Department of State and National Oceanic and Atmospheric Administration (NOAA) will be accepting public comments on the proposed scope for the upcoming United States Ocean Acidification Action Plan (OA-AP). Drafting a national OA-AP is a commitment made by all members of the International Alliance to Combat Ocean Acidification (OA Alliance). The document will highlight our leadership in reducing carbon emissions, strengthening monitoring, research and coordination research efforts, and investing in adaptive measures.

**DATES:** The comment period will be open for 30 days from the publication of this notice. Guidance on how to submit comments and the proposed content for the OA-AP are below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about the United States OA-AP, contact Meaghan Cuddy at [CuddyMR@state.gov](mailto:CuddyMR@state.gov) or at (202) 340-3272.

**SUPPLEMENTARY INFORMATION:** The United States joined the OA Alliance at the UN Ocean Conference in June 2022. The OA Alliance is a voluntary coalition that works to build international momentum for actions that address the causes of ocean acidification (OA), increase research and monitoring efforts, and advance the resilience of coastal communities. The Department of State and NOAA co-lead for U.S. national membership in the OA Alliance and have been working with the OA Alliance secretariat to develop a plan for drafting the U.S. OA-AP.

Recently, the United States released its first-event Ocean Climate Action Plan (OCAP), which details ongoing and planned Federal ocean-based climate mitigation and adaptation activities and recommends new or enhanced ocean science and policy actions to tackle climate change. The OA-AP is designed to be a complementary component of the OCAP, addressing one of the key impacts on the ocean from anthropogenic carbon emissions.

In advance of drafting the OA-AP, the Department of State and NOAA are seeking public comment on the scope of the plan. The U.S. OA-AP will be drafted with input and feedback from the U.S. Federal Interagency Working

Group on Ocean Acidification, which includes 14 U.S. Federal agencies.

The proposed scope of the document includes the following areas: (1) A brief overview of the cause of OA and its impacts; (2) A brief overview of the national-level framework of policies, programs, and actions implemented by federal agencies to reduce carbon emissions, coordinate research and monitoring efforts, and adapt to OA, along with remaining challenges; (3) a brief overview of subnational efforts to address OA, particularly by subnational U.S. members for the OA Alliance; (4) Proposed and/or planned future federal actions and goals to address ocean acidification and its root causes; and (5) New ideas for engagement at the international level to support global research, monitoring, adaptation, and carbon reduction efforts to address the impacts of OA, giving recognition to what can't be solved without international engagement.

The OA-AP is intended to be a short, high-level document that highlights the overall general direction for U.S. response to OA. It will, by design, not include all potential U.S. actions, but serve as a general roadmap to the United States' strategy to address OA through comprehensive policy across the interagency and at multiple levels of management. We are requesting input on what new directions the US should consider, within reason, in how we are addressing ocean acidification both nationally and internationally. Public comments should address: (1) The general proposed scope of the OA-AP, and/or (2) Suggestions for ambitious national-level policy, technical, scientific, or management actions to be included in the OA-AP. It is recommended that comments are limited to 500 words. Please note that public suggestions for action are not guaranteed to be included in the final OA-AP. Comments can be submitted in writing to [CuddyMR@state.gov](mailto:CuddyMR@state.gov).

The OA Alliance was launched at the 2016 Our Ocean Conference by the Pacific Coast Consortium, a consortium of governments including British Columbia, Washington, Oregon and California, with the consulting firms Cascadia Policy Solutions and Ross Strategic serving as facilitators. It now includes country members as well, including Chile, Norway, France, Canada, Sweden, and the United States. The United States, as a global leader in OA research, vulnerability assessments, modeling, technology development, scientific capacity building, and adaptation, joined the OA Alliance for the purpose of supporting international collaboration to understand and combat

OA. Drafting and releasing the U.S. national action plan will provide a model for other OA Alliance members seeking to integrate OA research, monitoring, and adaptation efforts across their governments. Additional information about the OA Alliance can be found at <https://www.oaalliance.org/>.

*Authority:* 22 U.S.C. 2656.

**Elizabeth Kim,**

*Director, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2023-10456 Filed 5-16-23; 8:45 am]

**BILLING CODE 4710-09-P**

**DEPARTMENT OF STATE****[Public Notice: 12075]****Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Brilliant Bohemian Garnets” Exhibition**

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition “Brilliant Bohemian Garnets” at the National Czech & Slovak Museum & Library, Cedar Rapids, Iowa, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28,

2000, and Delegation of Authority No. 523 of December 22, 2021.

**Scott Weinhold,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2023–10519 Filed 5–16–23; 8:45 am]

BILLING CODE 4710–05–P

**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

[Docket Number USTR–2023–0003]

**Annual Review of Country Eligibility  
for Benefits Under the African Growth  
and Opportunity Act for Calendar Year  
2024**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of virtual public hearing and request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is announcing the initiation of the annual review of the eligibility of sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The AGOA Implementation Subcommittee of the Trade Policy Staff Committee (AGOA Subcommittee) is requesting written public comments for this review and will conduct a virtual public hearing on this matter. In developing its recommendations for the President on AGOA country eligibility for calendar year 2024, the AGOA Subcommittee will consider the written comments, written testimony, and oral testimony.

**DATES:**

*July 7, 2023 at 11:59 p.m. EDT:* Deadline for submission of written comments, requests to testify, and written testimony, regarding the eligibility of countries to be designated as beneficiary sub-Saharan African countries.

*July 24, 2023 at 10:00 a.m. EDT:* The AGOA Subcommittee will convene a virtual public hearing to receive oral testimony related to sub-Saharan African countries' eligibility for AGOA benefits via WebEx.

**ADDRESSES:** The AGOA Subcommittee strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov> (*Regulations.gov*). Follow the instructions for submitting written comments and testimony and requests to testify in sections III and IV below, using Docket Number USTR–2023–0003. For alternatives to on-line submissions, please contact Jeremy

Streatfeild, Director of African Affairs, Office of African Affairs, in advance of the relevant deadline at [Jeremy.E.Streatfeild@ustr.eop.gov](mailto:Jeremy.E.Streatfeild@ustr.eop.gov) or (202) 395–8642.

**FOR FURTHER INFORMATION CONTACT:**

Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, at [Jeremy.E.Streatfeild@ustr.eop.gov](mailto:Jeremy.E.Streatfeild@ustr.eop.gov) or (202) 395–8642.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 2466a *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (1974 Act), as well as for the preferential treatment for certain textile and apparel articles. The President may designate a country as a beneficiary sub-Saharan African country eligible for AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, among other things:

- a market-based economy;
- the rule of law;
- political pluralism;
- the right to due process;
- the elimination of barriers to U.S. trade and investment;
- economic policies to reduce poverty;
- a system to combat corruption and bribery, and;
- protection of internationally recognized worker rights.

In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Section 502 of the 1974 Act provides for country eligibility criteria under GSP. For a complete list of the AGOA eligibility criteria and more information on the GSP criteria, see section 104 of the AGOA and section 502 of the 1974 Act.

Section 506A of the 1974 Act requires the President to monitor and annually review the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to

determine if a beneficiary sub-Saharan African country should continue to be eligible, and if a sub-Saharan African country that currently is not a beneficiary, should be designated as a beneficiary. If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, the President must terminate the designation of the country as a beneficiary sub-Saharan African country. The President also may withdraw, suspend or limit the application of duty-free treatment with respect to specific articles from a country if he determines that it would be more effective in promoting compliance with AGOA eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2023 the President designated the following 35 countries as beneficiary sub-Saharan African countries:

1. Angola
2. Benin
3. Botswana
4. Cabo Verde
5. Central African Republic
6. Chad
7. Comoros
8. Democratic Republic of Congo
9. Republic of Congo
10. Cote d'Ivoire
11. Djibouti
12. Eswatini
13. Gabon
14. The Gambia
15. Ghana
16. Guinea-Bissau
17. Kenya
18. Lesotho
19. Liberia
20. Madagascar
21. Malawi
22. Mauritius
23. Mozambique
24. Namibia
25. Niger
26. Nigeria
27. Rwanda (AGOA apparel benefits suspended effective July 31, 2018)
28. Sao Tome & Principe
29. Senegal
30. Sierra Leone
31. South Africa
32. Tanzania
33. Togo
34. Uganda
35. Zambia

The President did not designate the following sub-Saharan African countries as beneficiary sub-Saharan African countries for 2023:

1. Burkina Faso
2. Burundi
3. Cameroon
4. Equatorial Guinea (graduated from GSP; ineligible for consideration for AGOA benefits)

5. Eritrea
6. Ethiopia
7. Guinea
8. Mali
9. Mauritania
10. Seychelles (graduated from GSP; ineligible for consideration for AGOA benefits)
11. Somalia (requested consideration for AGOA benefits for the first time this year)
12. South Sudan
13. Sudan (did not request designation as an AGOA beneficiary country)
14. Zimbabwe

The AGOA Subcommittee is requesting written public comments for this review and will conduct a virtual public hearing to develop recommendations to the President in connection with the annual review of sub-Saharan African countries' eligibility for AGOA benefits. The Secretary of Labor may consider comments related to the child labor criteria to prepare the U.S. Department of Labor's report on child labor as required under section 504 of the 1974 Act.

## II. Hearing Participation

The AGOA Subcommittee will convene a virtual public hearing to receive oral testimony related to sub-Saharan African countries' eligibility for AGOA benefits via WebEx on Monday, July 24, 2023, beginning at 10:00 a.m. EDT. Persons wishing to observe the public hearing will find a link on USTR's web page for sub-Saharan Africa on the day of the hearing at <https://ustr.gov/countries-regions/africa>.

To ensure participation, you must submit requests to present oral testimony at the hearing and written testimony by midnight on July 7, 2023, via *Regulations.gov*, using Docket Number USTR-2023-0003. Instructions for submission are in sections III and IV below. Remarks at the hearing will be limited to no more than five minutes to allow for possible questions from the AGOA Subcommittee. Because the hearing will be public, testimony should not include any business confidential information (BCI). USTR will provide a link in advance of the virtual hearing to persons wishing to testify.

The AGOA Subcommittee requests small businesses (generally defined by the Small Business Administration as firms with fewer than 500 employees) or organizations representing small business members that submit comments to self-identify as such, so that we may be aware of issues of particular interest to small businesses.

## III. Procedures for Written Submissions

To be assured of consideration, submit your written comments, requests to testify, and written testimony by the July 7, 2023, 11:59 p.m. EDT deadline. All submission must be in English. The AGOA Subcommittee strongly encourages submissions via *Regulations.gov*, using Docket Number USTR-2023-0003.

To make a submission via *Regulations.gov*, enter Docket Number USTR-2023-0003 in the 'search for' field on the home page and click 'search.' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'refine documents results' section on the left side of the screen and click on the link entitled 'comment.'

*Regulations.gov* allows users to make submissions by filling in a 'type comment' field or by attaching a document using the 'upload file' field. The AGOA Subcommittee prefers that you provide submissions in an attached document and note 'see attached' in the 'comment' field on the online submission form. The AGOA Subcommittee prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'type comment' field.

At the beginning of your submission or on the first page (if an attachment), include the following text: (1) 2024 AGOA Eligibility Review; (2) the relevant country or countries; and (3) whether the submission is a comment, request to testify, or written testimony. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the submission itself. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files. You will receive a tracking number upon completion of the submission procedure at *Regulations.gov*. The tracking number is confirmation that *Regulations.gov* received your submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for *Regulations.gov*.

For further information on using *Regulations.gov*, please consult the resources provided on the website by clicking on 'How to Use

*Regulations.gov*' on the bottom of the home page. The AGOA Subcommittee may not consider submissions that you do not make in accordance with these instructions.

If you are unable to provide submissions as requested, please contact Jeremy Streatfeild, Director of African Affairs, Office of African Affairs, in advance of the deadline at [Jeremy.E.Streatfeild@ustr.eop.gov](mailto:Jeremy.E.Streatfeild@ustr.eop.gov) or (202) 395-8642, to arrange for an alternative method of transmission. USTR will not accept hand-delivered submissions. General information concerning USTR is available at [www.ustr.gov](http://www.ustr.gov).

## IV. Business Confidential Information (BCI) Submissions

If you ask the AGOA Subcommittee to treat information you submit as BCI, you must certify that the information is business confidential and you would not customarily release it to the public. For any comments submitted electronically containing BCI, the file name of the business confidential version should begin with the characters 'BCI.' You must clearly mark any page containing BCI with 'BUSINESS CONFIDENTIAL' at the top of that page. Filers of submissions containing BCI also must submit a public version of their submission that will be placed in the docket for public inspection. The file name of the public version should begin with the character 'P.'

## V. Public Viewing of Review Submissions

USTR will post written submissions in the docket for public inspection, except properly designated BCI. You can view submissions at *Regulations.gov* by entering Docket Number USTR-2023-0003 in the search field on the home page.

**William Shpiece,**

*Chair of the Trade Policy Staff Committee,  
Office of the United States Trade Representative.*

[FR Doc. 2023-10480 Filed 5-16-23; 8:45 am]

**BILLING CODE 3390-F3-P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation**

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice.

**SUMMARY:** In prior notices, the U.S. Trade Representative modified the actions in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by excluding from additional duties certain medical-care products needed to address COVID, and subsequently extended certain of these exclusions. The current COVID exclusions—covering 81 medical-care products—are scheduled to expire on May 15, 2023. This notice announces the U.S. Trade Representative's determination to provide a 16-day transition period for all COVID exclusions, extending them through May 31, 2023, and to extend 77 of the COVID exclusions through September 30, 2023.

**DATES:** To provide a transition period, this notice extends the 81 exclusions scheduled to expire on May 15, 2023 through May 31, 2023, listed in Annex B to notice 86 FR 63438). Those exclusions receiving further extensions and listed in the Annex to this notice are extended through September 30, 2023. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

**FOR FURTHER INFORMATION CONTACT:** For general questions about this notice, contact Associate General Counsel Philip Butler or Assistant General Counsel Edward Marcus at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions, contact [traderemedycbp.dhs.gov](mailto:traderemedycbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

In the course of this investigation, the U.S. Trade Representative has imposed additional duties on products of China in four tranches. *See* 83 FR 28719 (June 20, 2018); 83 FR 40823 (August 16, 2018); 83 FR 47974 (September 21, 2018), as modified by 83 FR 49153 (September 28, 2018); and 84 FR 43304 (August 20, 2019), as modified by 84 FR 69447 (December 18, 2019) and 85 FR 3741 (January 22, 2020).

For each tranche, the U.S. Trade Representative established a process by which U.S. stakeholders could request the exclusion of particular products subject to the action. Additionally, on March 25, 2020, USTR requested public comments on proposed modifications to exclude from additional duties certain medical-care products related to the U.S. response to COVID. 85 FR 16987 (March 25, 2020).

On December 29, 2020, USTR announced 99 product exclusions for medical-care products and products

related to the U.S. COVID response. These 99 exclusions were later extended until September 30, 2021. 86 FR 13785. On August 27, 2021, USTR published a notice requesting public comments on whether any of these exclusions should be further extended for up to six months. 86 FR 48280. On November 16, 2021, USTR announced the U.S. Trade Representative's determination to extend 81 of these exclusions for an additional 6 months. *See* 86 FR 63438 (November 16, 2021). The notice further provided that the U.S. Trade Representative might consider further extensions and/or modifications as appropriate. 86 FR 63438. These 81 exclusions were subsequently extended through February 28, 2023. *See* 87 FR 33871 (June 03, 2022); 87 FR 73383 (November 29, 2022).

On February 7, 2023, USTR published a notice requesting public comments on whether to further extend any of these exclusions for up to 6 months and announced an interim extension of the 81 exclusions through May 15, 2023, to allow time for consideration of the public comments. 87 FR 8027 (February 7, 2023). The February 7 notice stated that USTR would evaluate each of the 81 exclusions on a case-by-case basis. The evaluation would examine whether it remains appropriate to exclude certain products from additional Section 301 duties in light of the changing circumstances, including the spread of variants or subvariants and the increased domestic production and availability of certain products, and taking account of the overall impact of these exclusions on the goal of obtaining the elimination of China's acts, policies, and practices covered in this Section 301 investigation.

In accordance with Section 307(c)(3) of the Trade Act of 1974, on September 8, 2022, USTR announced that it would be conducting a review of the July 6, 2018 and August 23, 2018 actions, as modified. *See* 87 FR 26797 (May 5, 2022); 87 FR 55073 (September 8, 2022). Section 307(c) of the Trade Act of 1974 requires the U.S. Trade Representative to conduct a review of: (A) the effectiveness in achieving the objectives of Section 301 of (i) such action, and (ii) other actions that could be taken (including actions against other products or services), and (B) the effects of such actions on the United States economy, including consumers. *See* 19 U.S.C. 2417(c)(3)(A) and (B). In a notice published on October 17, 2022 (87 FR 62914), USTR announced that it was opening a docket on November 15, 2022 (USTR–2022–0014) for interested persons to submit comments with respect to any aspect of Section 307(c)

considerations, including whether certain tariff headings should remain covered by the actions.

**B. Determination To Extend Certain Exclusions**

Based on evaluation of the public comments and the factors set out in the February 7 notice, and pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, the U.S. Trade Representative has determined to extend 77 of the COVID-related exclusions as set out in the Annex to this notice through September 30, 2023. The U.S. Trade Representative has determined that extending these 77 exclusions is not likely to adversely harm domestic manufacturing of products covered by the exclusions, and extending them through September 30, 2023 will allow the U.S. Trade Representative to consider and align, as appropriate, the exclusions with the results of the statutory 4-year review. The U.S. Trade Representative's determination to extend these exclusions takes into account public comments submitted in response to the February 7 notice and the advice of advisory committees, the interagency Section 301 Committee, and the White House COVID Response Team.

To provide a transition period for the expiring exclusions, the U.S. Trade Representative has determined to extend all 81 COVID-related exclusions described in Annex B of the November 16, 2021 (86 FR 63438) notice through May 31, 2023.

The exclusion extensions are available for any product that meets the description in the product exclusion. Further, the scope of each exclusion and modification is governed by the scope of the ten-digit Harmonized Tariff Schedule of the United States (HTSUS) subheadings and product descriptions in the Annex to this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The U.S. Trade Representative may continue to consider further extensions and/or additional modifications as appropriate.

The U.S. Trade Representative's determination not to extend certain COVID-related exclusions does not affect exclusions reinstated October 12, 2021 under docket number USTR–2021–0019 and subsequently extended through September 30, 2023. *See* 87 FR 78187 (December 21, 2022).

**Greta Peisch,**

*General Counsel, Office of the United States Trade Representative.*

**BILLING CODE 3290–F3–P**

Annexes for COVID Extensions

Annex A

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on May 15, 2023, and before 11:59 p.m. eastern daylight time on May 31, 2023, the article description of heading 9903.88.66 of the Harmonized Tariff Schedule of the United States is modified by deleting “May 15, 2023,” and by inserting “June 1, 2023,” in lieu thereof.

Annex B

- A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 1, 2023 and before 11:59 p.m. eastern daylight time on September 30, 2023, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:
1. by inserting the following new heading 9903.88.68 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled “Heading/Subheading”, “Article Description”, and “Rates of Duty 1-General”, respectively:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
“9903.88.68	Effective with respect to entries on or after June 1, 2023, and before October 1, 2023, articles the product of China, as provided for in U.S. note 20(uuu) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative . . . . .	The duty provided in the applicable subheading”		

2. by inserting the following new U.S. note 20(uuu) to subchapter III of chapter 99 in numerical sequence:
- “(uuu) (i) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.01 and provided for in U.S. notes 20(a) and 20(b) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.01. See 83 Fed. Reg. 40823 (August 16, 2018) and 83 Fed. Reg. 47326 (September 18, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.68, the additional duties provided for in heading 9903.88.01 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:
- (1) Disposable plastic filters of a kind suitable for filtering and dehumidifying a patient's breath in a medical device such as a gas analyzer (described in statistical reporting number 8421.39.8090)
  - (2) S-band and X-band linear accelerators designed for use in radiation surgery or radiation therapy equipment (described in statistical reporting number 8543.10.0000)

- (3) Disposable electrocardiograph (ECG) electrodes (described in statistical reporting number 9018.11.9000)
- (4) Ultrasonic scanning apparatus, each having dimensions not exceeding 122 cm by 77 cm by 127 cm, whether or not presented with transducer (described in statistical reporting number 9018.12.0000)
- (5) Blood pressure monitors suitable for use by medical professionals (described in statistical reporting number 9018.19.9530)
- (6) Digital peak flow meters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)
- (7) Fingertip pulse oximeters suitable for use by medical professionals (described in statistical reporting number 9018.19.9550)
- (8) Bismuth germanate crystals with set dimensional and surface finish requirements and used as a detection element in Positron Emission Tomography (PET) detectors (described in statistical reporting number 9018.19.9560)
- (9) Magnetic resonance imaging ("MRI") patient enclosure devices, each incorporating radio frequency and gradient coils (described in statistical reporting number 9018.19.9560)
- (10) Parts and accessories of capnography monitors (described in statistical reporting number 9018.19.9560)
- (11) Disposable surface electrodes for Intra-operative neuromonitoring ("IONM") systems, each composed of a surface electrode pad, an insulated wire, and a standard DIN 42802 connector (described in statistical reporting number 9018.19.9560)
- (12) Otoscopes (described in statistical reporting number 9018.90.2000)
- (13) Anesthesia masks (described in statistical reporting number 9018.90.3000)
- (14) Anesthetic instruments and appliances suitable for use in medical or surgical sciences, and parts and accessories of the foregoing (described in statistical reporting number 9018.90.3000)
- (15) Electrosurgical cautery pencils with electrical connectors (described in statistical reporting number 9018.90.6000)
- (16) Printed circuit board assemblies designed for use in displaying operational performance of medical infusion equipment (described in statistical reporting number 9018.90.7580)
- (17) Combined positron emission tomography/computed tomography (PET/CT) scanners which utilize multiple PET gantries (frames) on a common base (described in statistical reporting number 9022.12.0000)
- (18) X-ray tables (described in statistical reporting number 9022.90.2500)
- (19) X-ray tube housings and parts thereof (described in statistical reporting number 9022.90.4000)
- (20) Multi-leaf collimators of radiotherapy systems based on the use of X-ray (described in statistical reporting number 9022.90.6000)
- (21) Parts and accessories, of metal, for mobile X-ray apparatus (described in statistical reporting number 9022.90.6000)
- (22) Vertical stands specially designed to support, contain or adjust the movement of X-ray digital detectors, or the X-ray tube and collimator in complete X-ray diagnostic systems (described in statistical reporting number 9022.90.6000)
- (23) Thermoplastic masks of polycaprolactone for the use of immobilizing patients, during the use of alpha, beta or gamma radiations, for radiography or radiotherapy (described in statistical reporting number 9022.90.9500)
- (24) Inoculator sets of plastics, each consisting of a plate with multiple wells, a display tray, and a lid; when assembled, the set measuring 105 mm or more but

not exceeding 108 mm in width, 138 mm or more but not exceeding 140 mm in depth, and 6.5 mm or less in thickness (described in statistical reporting number 9027.90.5650)

(ii) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.02 and provided for in U.S. notes 20(c) and 20(d) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.02. See 83 Fed. Reg. 40823 (August 16, 2018) and 83 Fed. Reg. 47326 (September 18, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.68, the additional duties provided for in heading 9903.88.02 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- (1) 9025.19.8010
- (2) 9025.19.8020
- (3) 9025.19.8060
- (4) 9025.19.8085
- (5) Molded acrylonitrile-butadiene-styrene (ABS) tubes, of a kind used to effect the sterile transfer of fluid from a bag or vial to another container, each tube measuring 7.5 cm or more but not exceeding 23 cm in length, with an inner diameter of less than 0.65 cm and an outer diameter of less than 9 cm, one end having been angle-cut to form a spike, and having an integrated flange, less than 3 cm in diameter (splash guard) near the spike end and removable polyethylene caps on each end, put up in sterile packing (described in statistical reporting number 3917.29.0090)
- (6) Rectangular sheets of high-density or low-density polyethylene, 111.75 cm to 215.9 cm in width, and 152.4 cm to 304.8 cm in length, with a sticker attached to mark the center of each sheet, of a kind used in hospital or surgery center operating rooms (described in statistical reporting number 3920.10.0000)
- (7) Sheets and strips consisting of both cross-linked polyethylene and ethylene vinyl acetate, of a width greater than 1 m but not greater than 1.5 m, and a length greater than 1.75 m but not greater than 2.6 m (described in statistical reporting number 3921.19.0000)
- (8) Polyethylene sheet and film laminated with spunbond-spunbond-spunbond nonwoven polypropylene fabric, measuring 1.12 m or more but not over 1.52 m in width and 1.93 m or more but not over 2.29 m in length, and weighing 55 g/m<sup>2</sup> or more but not exceeding 88 g/m<sup>2</sup> (described in statistical reporting number 3921.90.1500)
- (9) Dispensers of hand-cleaning or hand-sanitizing solutions, whether employing a manual pump or a proximity-detecting battery-operated pump, each article weighing not more than 3 kg (described in statistical reporting number 8424.89.9000)

(iii) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.03 and provided for in U.S. notes 20(e) and 20(f) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.03, and by which particular products classified in heading 9903.88.04 and provided for in U.S. note 20(g) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.04. See 83 Fed. Reg. 47974 (September 21, 2018) and 84 Fed. Reg. 29576 (June 24, 2019). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.68, the

additional duties provided for in heading 9903.88.03 or in heading 9903.88.04 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

- (1) 3808.94.1000
- (2) 3808.94.5010
- (3) 3926.20.9050
- (4) 4819.50.4060
- (5) 5603.12.0090 prior to July 1, 2022; 5603.12.0070 or 5603.12.0095 effective July 1, 2022
- (6) 5603.92.0090 prior to July 1, 2022; 5603.92.0070 or 5603.92.0095 effective July 1, 2022
- (7) 5603.93.0090
- (8) 6505.00.8015
- (9) 8424.90.9080
- (10) Sodium metal (CAS No. 7440-23-5), in bulk solid form (described in statistical reporting number 2805.11.0000)
- (11) Disposable cloths of nonwoven textile materials impregnated, coated or covered with organic surface-active preparations for washing the skin, put up for retail sale (described in statistical reporting number 3401.30.5000)
- (12) Mixtures containing 2-(dimethylamino)ethanol (CAS No. 108-01-0) (described in statistical reporting number 3824.99.9297)
- (13) Silicon monoxide (SiO) (CAS No. 10097-28-6) in powder form (described in statistical reporting number 3824.99.9297)
- (14) Flexible gas sampling tubes, pipes and hoses, of polyvinyl chloride, with lock connectors at each end (described in statistical reporting number 3917.33.0000)
- (15) Flexible oxygen tubes, pipes and hoses presented with integrated molded connectors, of polyvinyl chloride (described in statistical reporting number 3917.33.0000)
- (16) Container units of plastics, each comprising a tub and lid therefore, configured or fitted for the conveyance, packing, or dispensing of wet wipes (described in statistical reporting number 3923.10.9000)
- (17) Sacks and bags of polymers of ethylene, reclosable, qualifying as Class 1 medical devices by the U.S. Food and Drug Administration under product code NNI (described in statistical reporting number 3923.21.0030)
- (18) Injection molded polypropylene plastic caps or lids each weighing not over 24 grams designed for dispensing wet wipes (described in statistical reporting number 3923.50.0000)
- (19) Hand pumps (other than for fuel or lubricants, not fitted or designed to be fitted with a metering device), each used to dispense a metered quantity of liquid soap or sanitizer (described in statistical reporting number 8413.20.0000)
- (20) Hand pumps for liquids (other than those of subheading 8413.11 or 8413.19) of acrylonitrile butadiene styrene (ABS) plastics (described in statistical reporting number 8413.20.0000)
- (21) Indicator panels incorporating LEDs, designed for use in medical infusion equipment (described in statistical reporting number 8531.20.0040)
- (22) Data input devices each with display capabilities of a kind used for magnetic resonance imaging ("MRI") equipment, computed tomography ("CT") equipment, intraoperative X-ray ("IXR") equipment or patient monitors (described in statistical reporting number 8537.10.9170)



- (23) Compound binocular optical microscopes (other than stereoscopic microscopes and microscopes for photomicrography, cinemicrography or microprojection), each with magnification of 40X or more but not exceeding 1,000X, weighing not more than 3 kg (described in statistical reporting number 9011.80.0000)
- (24) Compound optical microscopes (other than stereoscopic microscopes and microscopes for photomicrography, cinemicrography or microprojection), each with magnification of 40X or more but not exceeding 400X, weighing not more than 15 kg (described in statistical reporting number 9011.80.0000)

“(iv) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.15 and provided for in U.S. notes 20(r) and (s) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.15. See 84 Fed. Reg. 43304 (August 20, 2019), 84 Fed. Reg. 45821 (August 30, 2019), 84 Fed. Reg. 57144 (October 24, 2019) and 85 Fed. Reg. 3741 (January 22, 2020). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that, as provided in heading 9903.88.68, the additional duties provided for in heading 9903.88.15 shall not apply to the following particular products, which are provided for in the following enumerated statistical reporting numbers:

- (1) 3401.19.0000
- (2) 3926.90.9910
- (3) 5210.11.4040
- (4) 5210.11.6020
- (5) 5504.10.0000
- (6) 6210.10.5010
- (7) 6210.10.5090
- (8) 6307.90.7200
- (9) Face shields of transparent plastics, whether or not assembled (described in statistical reporting number 3926.90.9950)
- (10) Bowls of molded plastics, with clips for retaining guide wires during surgical procedures (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (11) Coverings, of plastics, designed to fit over wound sites or casts thereby forming a protective seal for keeping the covered area dry and debris free while showering or bathing (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (12) Disposable graduated medicine dispensing cups of plastics (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (13) Single-use sterile drapes and covers of plastics, of a kind used to protect the sterile field in surgical operating rooms (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (14) Sterile decanters of polystyrene plastics, each of a kind used to transfer aseptic fluids or medication to and from sterile bags, vials or glass containers (described in statistical reporting number 3926.90.9990 prior to July 1, 2020; described in statistical reporting number 3926.90.9985 effective July 1, 2020)
- (15) Cold packs consisting of a single-use, instant, endothermic chemical reaction cold pack combined with a textile exterior lining (described in statistical

- reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (16) Hot packs of textile material, single-use (exothermic chemical reaction) (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (17) Laparotomy sponges of cotton (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (18) Single-use blood pressure cuff sleeves of textile materials (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (19) Single-use stethoscope covers (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)
- (20) Woven gauze sponges of cotton in square or rectangular sizes (described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)".
3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III of chapter 99 by:
- a. by deleting "or (15)" and by inserting "(15)" in lieu thereof; and
- b. by inserting "; or (16) heading 9903.88.68 and U.S. note 20(uuu)(i) to subchapter III of chapter 99" after the phrase "U.S. note 20(ttt)(i) to subchapter III of chapter 99", where it appears at the end of the sentence.
4. by amending U.S. note 20(b) to subchapter III of chapter 99 by:
- a. by deleting "or (15)" and by inserting "(15)" in lieu thereof; and
- b. by inserting "; or (16) heading 9903.88.68 and U.S. note 20(uuu)(i) to subchapter III of chapter 99" after the phrase "U.S. note 20(ttt)(i) to subchapter III of chapter 99", where it appears at the end of the sentence.
5. by amending the last sentence of the first paragraph of U.S. note 20(c) to subchapter III of chapter 99 by:
- a. by deleting "or (9)" and by inserting "(9)" in lieu thereof; and
- b. by inserting "; or (10) heading 9903.88.68 and U.S. note 20(uuu)(ii) to subchapter III of chapter 99" after the phrase "U.S. note 20(ttt)(ii) to subchapter III of chapter 99", where it appears at the end of the sentence.
6. by amending U.S. note 20(d) to subchapter III of chapter 99 by:
- a. by deleting "or (9)" and by inserting "(9)" in lieu thereof; and
- b. by inserting "; or (10) heading 9903.88.68 and U.S. note 20(uuu)(ii) to subchapter III of chapter 99" after the phrase "U.S. note 20(ttt)(ii) to subchapter III of chapter 99", where it appears at the end of the sentence.

7. by amending the last sentence of the first paragraph of U.S. note 20(e) to subchapter III of chapter 99 by:
  - a. by deleting “or (18)” and by inserting “(18)” in lieu thereof; and
  - b. by inserting “; or (19) heading 9903.88.68 and U.S. note 20(uuu)(iii) to subchapter III of chapter 99” after the phrase “U.S. note 20(ttt)(iii) to subchapter III of chapter 99”, where it appears at the end of the sentence.
8. by amending U.S. note 20(f) to subchapter III of chapter 99 by:
  - a. by deleting “or (18)” and by inserting “(18)” in lieu thereof; and
  - b. by inserting “; or (19) heading 9903.88.68 and U.S. note 20(uuu)(iii) to subchapter III of chapter 99” after the phrase “U.S. note 20(ttt)(iii) to subchapter III of chapter 99”, where it appears at the end of the sentence.
9. by amending the last sentence of the first paragraph of U.S. note 20(r) to subchapter III of chapter 99:
  - a. by deleting “or (12)” and by inserting “(12)” in lieu thereof; and
  - b. by inserting “, or (13) heading 9903.88.68 and U.S. note 20(uuu)(iv) to subchapter III of chapter 99” after “U.S. note 20(ttt)(iv) to subchapter III of chapter 99”.
10. by amending the article description of heading 9903.88.01:
  - a. by deleting “9903.88.66 or”;
  - b. by inserting in lieu thereof “9903.88.66,”; and
  - c. by inserting “or 9903.88.68” after “9903.88.67”.
11. by amending the article description of heading 9903.88.02:
  - a. by deleting “9903.88.66 or”;
  - b. by inserting in lieu thereof “9903.88.66,”; and
  - c. by inserting “or 9903.88.68” after “9903.88.67”.
12. by amending the article description of heading 9903.88.03:
  - a. by deleting “9903.88.66 or”;
  - b. by inserting in lieu thereof “9903.88.66,”; and
  - c. by inserting “or 9903.88.68” after “9903.88.67”.

## 13. by amending the article description of heading 9903.88.15:

- a. by deleting “9903.88.66 or”;
- b. by inserting in lieu thereof “9903.88.66,”; and
- c. by inserting “or 9903.88.68” after “9903.88.67”.

[FR Doc. 2023–10460 Filed 5–16–23; 8:45 am]  
BILLING CODE 3290–F3–C

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****[Docket No. FHWA–2023–0015]****Agency Information Collection  
Activities: Request for Comments for a  
New Information Collection****AGENCY:** U.S. Department of  
Transportation (DOT).**ACTION:** Notice and request for  
comments.

**SUMMARY:** The DOT invites public comments about our intention to request the Office of Management and Budget’s (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by July 17, 2023.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number 2023–0015 by any of the following methods:

*Website:* For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

*Fax:* 1–202–493–2251.

*Mail:* Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

*Hand Delivery or Courier:* U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Govind Vadakpat Ph.D., 202–366–5004, Smart Infrastructure Program Manager, Intelligent Transportation Systems Joint

Program Office (ITS JPO), Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* U.S. DOT Intersection Safety Challenge—System Assessment and Virtual Testing Competition.

*Background:* Improving the safety of pedestrians, bicyclists, and other vulnerable road users is of critical importance to achieving the objectives of the U.S. Department of Transportation (DOT) National Roadway Safety Strategy (NRSS) and DOT’s vision of zero fatalities and serious injuries across our transportation system. According to data from the National Highway Traffic Safety Administration (NHTSA), in 2020 there were 10,626 traffic fatalities in the United States at roadway intersections, including 1,674 pedestrian and 355 bicyclist fatalities. These fatalities at intersections represent 27% of the total of 38,824 road traffic deaths recorded in 2020.

In response to these growing concerns and as part of the NRSS Call to Action, the DOT Intersection Safety Challenge (hereafter, “the Challenge”) incentivizes the development of new, cost-effective, real-time roadway Intersection Safety System (ISS) concepts that apply emerging technologies to identify and mitigate unsafe roadway intersection conditions involving vehicles and vulnerable road users. Innovative ISS concepts may utilize emerging technologies, e.g., machine sensing and perception, data fusion, artificial intelligence (AI) and machine learning (ML), trajectory and path prediction, vehicle-to-everything (V2X) communications, and real-time decision-making to generate anticipatory warning systems and other safety-countermeasures. In the U.S. DOT Intersection Safety Challenge—System Assessment and Virtual Testing Competition, participants will develop and improve algorithms for the detection, localization, and classification of vulnerable road users and vehicles using government-supplied

sensor data. These government-supplied data include contemporaneous feeds from diverse sensor technology deployed at the roadside in a controlled test intersection. Participants will use these data and their resulting algorithms to predict future intersection conditions and identify potentially unsafe conditions (current or predicted). The accuracy of these predictions will be measured against observed ground truth conditions as part of a broader set of judging criteria. To be eligible for a prize, submissions must include a structured description of identified and predicted intersection conditions as well as the executable computer programming code required to support independent validation. Participants may submit an optional Concept Paper describing their ISS concept and the potential of this concept to address the vision and objectives of the Challenge. The government anticipates awarding multiple prizes. Detailed rules and judging criteria will be provided when the prize competition is formally announced.

*Respondents:* Approximately 40 participants (or participant teams) are expected to respond to the prize competition.

*Frequency:* Participants may submit the structured description and supporting computer programming code (for validation) up to three times during the duration of the U.S. DOT Intersection Safety Challenge—System Assessment and Virtual Testing Competition. Participants may submit an optional Concept Paper at any time prior to the close of the prize competition.

*Estimated Average Burden per Response:* Approximately 2,000 total staff-hours is estimated for a participant to complete up to 3 submissions with all required elements for the U.S. DOT Intersection Safety Challenge—System Assessment and Virtual Testing Competition. Further, the completion of the optional Concept Paper is estimated at 170 staff-hours.

*Estimated Total Annual Burden Hours:* 40 respondents × 2,170 hours = 86,800 hours.

**Public Comments Invited:** You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for DOT's performance; (2) the accuracy of the estimated burdens; (3) ways for DOT to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: May 12, 2023.

**Michael Howell,**

*Information Collection Officer.*

[FR Doc. 2023-10549 Filed 5-16-23; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2010-0052]

#### Utah Transit Authority FrontRunner Commuter Rail's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on May 4, 2023, Utah Transit Authority FrontRunner Commuter Rail System (UTA) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA involves a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by June 6, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

#### ADDRESSES:

**Comments:** Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA-2010-0052. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

#### FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: [Gabe.Neal@dot.gov](mailto:Gabe.Neal@dot.gov).

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on May 4, 2023, UTA submitted an RFA to its PTCSP for its Enhanced Automatic Train Control, seeking FRA's approval of the Expedient Release of Mandatory Directives functionality and changes to Office Blocking and Temporary Speed Restriction functions. This RFA is available in Docket No. FRA-2010-0052.

Interested parties are invited to comment on UTA's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

## Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of [www.regulations.gov](https://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2023-10462 Filed 5-16-23; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2023-0002-N-6]

#### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On March 2, 2023, FRA published a notice providing a 60-day period for public comment on the ICR.

**DATES:** Interested persons are invited to submit comments on or before June 16, 2023.

**ADDRESSES:** Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](https://www.reginfo.gov/public/do/PRAMain). Find the particular ICR by selecting "Currently under 30-day Review—Open

for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Ms. Arlette Mussington, Information Collection Clearance Officer, at email: [arlette.mussington@dot.gov](mailto:arlette.mussington@dot.gov) or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: [joanne.swafford@dot.gov](mailto:joanne.swafford@dot.gov) or telephone: (757) 897–9908.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On March 2, 2023, FRA published a 60-day notice in the **Federal Register** soliciting public comment on the ICR for which it is now seeking OMB approval. See 88 FR 13224. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30-days’ notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.10(b); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

*Comments are invited on the following ICR regarding:* (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service.

*OMB Control Number:* 2130–0593.

*Abstract:* This collection of information is necessary to enable FRA to garner customer and stakeholder feedback in an efficient, timely manner, consistent with its commitment to improving service delivery. The information collected from FRA’s customers and stakeholders will help ensure users have an effective, efficient, and satisfying experience with FRA’s programs. This feedback will provide insights into customer and stakeholder perceptions, experiences, and expectations, provide an early indicator of issues with service, and focus attention on areas where communication, training or changes in operations might improve delivery of products or services. This collection will allow ongoing, collaborative, and actionable communications between FRA and its customers and stakeholders. It also allows feedback to contribute directly to the improvement of program management. If this information is not collected, vital feedback from customers and stakeholders on FRA’s services will be unavailable.

Improving FRA’s programs requires ongoing assessment of service delivery. FRA will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements to service delivery based on feedback. The solicitation of feedback will target areas such as: timeliness, appropriateness, information accuracy, courtesy, service delivery efficiency, and issue resolution. FRA will assess responses in order to plan and inform efforts seeking to improve the quality of service offered to the public.

FRA will only submit a collection for approval under this generic clearance under the following conditions:

- The information gathered is only used internally for general service improvement and program management purposes and is not intended for public release;
- The information gathered is not used to substantially inform significant policy decisions;
- The information gathered will yield qualitative information; FRA will not design the collection or expect it to yield statistically reliable results or use it as though the results are generalizable to the study population;
- Participation in the collection is voluntary;

- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;

- The collection is non-controversial and does not raise issues of concern to other Federal agencies;
- The collection is directed to the solicitation of opinions from respondents who have experience with the OMB program or may have experience with the OMB program soon after receiving the collection; and

- With the exception of information needed to provide remuneration for focus group participants and cognitive laboratory studies, personally identifiable information (PII) is collected only to the extent necessary and is not retained by FRA.

*Type of Request:* Extension without change (revised estimates) of a currently approved collection.

*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Governments.

*Form(s):* N/A.

*Respondent Universe:* 5,750.

*Frequency of Submission:* Once per request.

*Total Estimated Annual Responses:* 5,750.

*Total Estimated Annual Burden:* 475 hours.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

*Authority:* 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Deputy Chief Counsel.*

[FR Doc. 2023–10503 Filed 5–16–23; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA–2010–0032]

#### Metro-North Railroad’s Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on May 9, 2023,

Metro-North Railroad (MNR) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA involves a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by June 6, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:**

*Comments:* Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA-2010-0032. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: [Gabe.Neal@dot.gov](mailto:Gabe.Neal@dot.gov).

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on May 9, 2023, MNR submitted an RFA to its PTCSP for its Advanced Civil Speed Enforcement System II (ACES II), which seeks FRA's approval of a new

release of Safety Temporary Speed Restriction Server (STS) Software, Version 1.2.5. MNR state that the software update is to address defects and contains no new functionality. The RFA is available in Docket No. FRA-2010-0032.

Interested parties are invited to comment on MNR's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. See 49 CFR 236.1021; see also 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

**Privacy Act Notice**

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of [www.regulations.gov](https://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams**,  
Director, Office of Railroad Systems and Technology.

[FR Doc. 2023-10475 Filed 5-16-23; 8:45 am]

**BILLING CODE 4910-06-P**

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

[Docket No. DOT-OST-2023-0016]

**30-Day Notice of Request for Reinstatement With Change of a Previously Approved Collection**

**AGENCY:** Office of the Secretary (OST), Department of Transportation (Department) or (DOT).

**ACTION:** Notice and request for comments.

**SUMMARY:** The OSDBU invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew an information collection. The collection involves "SBTRC Regional Field Offices Intake Form (DOT F 4500)" with OMB Control Number 2105-0554.

**DATES:** Please submit comments by June 16, 2023.

**ADDRESSES:** You may submit comments [identified by Docket No. DOT-OST-2023-0016 through one of the following methods:

- Office of Management and Budget, Attention: Desk Officer for U.S. Department of Transportation, Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503,
- email: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov).
- Fax: (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:**

Peter Kontakos, 202-366-1930 ext. 62253, Office of Small and Disadvantaged Business Utilization, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W56-444, Washington, DC 20590. Office hours are from 9:00a.m. to 5:00p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* SBTRC Regional Field Offices Intake Form (DOT F 4500).

*OMB Control Number:* 2105-0554.

*Background:* In accordance with Public Law 95-507, an amendment to the Small Business Act and the Small Business Investment Act of 1953, OSDBU is responsible for the implementation and execution of DOT activities on behalf of small businesses, in accordance with Section 8, 15 and 31 of the Small Business Act (SBA), as amended. The Office of Small and Disadvantaged Business Utilization also administers the provisions of Title 49, of the United States Code, Section 332, the Minority Resource Center (MRC) which includes the duties of advocacy, outreach, and financial services on behalf of small and disadvantaged businesses and those certified under CFR 49 parts 23 and or 26 as Disadvantaged Business Enterprises (DBE). SBTRC's Regional Field Offices will collect information on small businesses, which includes Disadvantaged Business Enterprise (DBE), Women-Owned Small Business (WOB), Small Disadvantaged Business (SDB), 8(a), Service Disabled Veteran Owned Business (SDVOB), Veteran Owned Small Business (VOSB), HubZone, and types of services they seek from the Regional Field Offices. Services and responsibilities of the

Field Offices include business analysis, general management & technical assistance and training, business counseling, outreach services/conference participation, short-term loan and bond assistance. The cumulative data collected will be analyzed by the OSDBU to determine the effectiveness of services provided, including counseling, outreach, and financial services. Such data will also be analyzed by the OSDBU to determine agency effectiveness in assisting small businesses to enhance their opportunities to participate in government contracts and subcontracts. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

**Title:** Small Business Transportation Resource Center Regional Field Office Intake Form (DOT F 4500).

**Form Numbers:** DOT F 4500.

**Type of Review:** Renewal of an information collection.

The Regional Field Offices Intake Form, (DOT F 4500) is used to enroll small business clients into the program in order to create a viable database of firms that can participate in government contracts and subcontracts, especially those projects that are transportation related. Each area on the fillable pdf form must be filled in electronically by the Field Offices and submitted every quarter to OSDBU. The Offices will retain a copy of each Intake Form for their records. The completion of the form is used as a tool for making decisions about the needs of the business, such as; referral to technical assistance agencies for help, identifying the type of profession or trade of the business, the type of certification that the business holds, length of time in business, and location of the firm. This data can assist the Field Offices in developing a business plan or adjusting their business plan to increase its ability to market its goods and services to buyers and potential users of their services.

**Respondents:** SBTRC Regional Field Offices.

**Estimated Number of Respondents:** 100.

**Frequency:** The information will be collected quarterly.

**Estimated Number of Responses:** 100.

**Estimated Total Annual Burden on Respondents:** 600 hours per year.

**Public Comments Invited:** You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the

information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on respondents, by the use of electronic means, including the use of automated collection techniques or other forms of information technology. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on May 11, 2023.

**Peter Kontakos,**

*Manager, Regional Assistance Division, Office of Small and Disadvantaged, Business Utilization.*

[FR Doc. 2023–10461 Filed 5–16–23; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2023–0079]

### Request for Information on Advanced Air Mobility

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice and request for information.

**SUMMARY:** The Department of Transportation (DOT) is seeking public input on the development of a national strategy on Advanced Air Mobility as required by the Advanced Air Mobility Coordination and Leadership Act. DOT has formed a team composed of multiple executive agencies that is seeking input on a variety of topics as outlined below.

**DATES:** Respondents are invited to submit comments no later than July 17, 2023.

**ADDRESSES:** You may submit responses and other comments identified by “RFI Response: Advanced Air Mobility” and Docket No. DOT–OST–2023–0079, by any of the following methods:

- **Federal Rulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments.
- **Email:** [AdvAirMobility\\_IWG@dot.gov](mailto:AdvAirMobility_IWG@dot.gov). Include “RFI Response: Advanced Air Mobility” and Docket No. DOT–OST–2023–0079 in the subject line of the email.
- **Mail/Hand Delivery/Courier:** Docket Operations Office, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Room W12–140,

Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday, except on Federal holidays. Include “RFI Response: Advanced Air Mobility” and Docket No. DOT–OST–2023–0079 on the cover page of the submission. Because paper mail in the Washington, DC, area is subject to delay, commenters are strongly encouraged to submit comments electronically.

Any submissions received after the deadline may not be accepted or considered.

**Instructions:** DOT encourages the early submission of comments. All submissions should include the docket number for this request for information. All comments received will be posted without change to <https://www.regulations.gov>. All comments, including attachments and other supporting material, will become part of the public record and subject to public disclosure. Comments generally will not be edited to remove any identifying or contact information.

**Confidential Business Information (CBI):** CBI is commercial or financial information that is customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this RFI contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this RFI, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN” to indicate that it contains proprietary information. DOT will treat such marked submissions as confidential under FOIA and not place them in the public docket of this RFI. Submissions containing CBI should be sent to the name and physical or email address listed below.

#### FOR FURTHER INFORMATION CONTACT:

Lauralyn Jean Remo Temprosa, Associate Director, Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Room W86–310, Washington, DC 20590. [AdvAirMobility\\_IWG@dot.gov](mailto:AdvAirMobility_IWG@dot.gov), (202) 366–5903.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Advanced Air Mobility (AAM) is an emerging field in which novel aircraft currently in design and testing could provide new levels of accessibility, convenience, and connectivity for people and cargo—and thus transform



our nation's transportation system to provide enhanced mobility for the traveling and shipping public. AAM aircraft—typically incorporating electric and hybrid-electric propulsion with vertical or short takeoff and landing capability—could greatly expand the reach and efficiency of current transportation networks by providing, among other things, shuttle services between airports and downtown locations, more dynamic and affordable medical evacuation and emergency response, rapid transportation of goods between cargo terminals and job sites, and on-demand air services between regions without existing rapid, reliable transportation links.

Provided that governments and industry work effectively together to deliver affordable and inclusive services to a broad range of the traveling and shipping public, the prospective benefits of this new and transformative technology could be significant,<sup>1</sup> including expansion of existing aviation services nationwide, reduction in carbon emissions versus current forms of transportation, improved safety and simplicity of maintenance and operations of aircraft, new jobs and career fields in advanced technology, and reduced noise impacts versus traditional aviation. However, as with any new technology, AAM also introduces a series of challenges affecting multiple government and non-government stakeholders, such as ensuring the continued safety and security of the airspace, the security of aviation networks, fully understanding and developing infrastructure requirements, and ensuring input from local communities. The rapid emergence of AAM is already challenging existing regulations and practices of all Federal departments and agencies that are responsible for aviation, communications, defense and security, global affairs, and infrastructure development.

In October 2022 Congress passed, and the President signed, the “Advanced Air Mobility Coordination and Leadership Act”<sup>2</sup> (“the Act”), which requires the Department of Transportation to form an interagency working group (IWG) to develop a national AAM strategy by 2024. The purpose of the strategy is to ensure the Federal government, in partnership with State, local, and Tribal entities, is ready to work with and

oversee the AAM industry, including developing new transportation options, amplifying economic activity and jobs, advancing environmental sustainability and new technologies, and supporting emergency preparedness and American competitiveness so that the United States continues to lead the world in aviation into the 21st century.<sup>3</sup>

The DOT established and is leading IWG as outlined in the Act. Safety is the highest priority of the DOT and the Federal Aviation Administration (FAA). Currently, DOT and FAA are working to develop and communicate to the public its regulatory concept of operations to safely enable AAM operations. AAM operations will typically start as piloted flights using traditional air traffic control procedures and existing regulatory structures. However, more ubiquitous and economical AAM operations are expected to require development of new technologies, procedures, and regulations that incorporate highly automated, unpiloted aircraft flying at lower altitudes with smaller areas of separation than in current operating environments. Given the importance of safety and security to the success of a future AAM system, the DOT requests comments on safety challenges and related subjects in response to this RFI. The DOT seeks comments specifically addressing public acceptance of AAM operations and the appropriate means of public engagement necessary to enable AAM operations in the future. The FAA will also continue to share information with industry and stakeholders to produce and iterate upon an AAM Concept of Operations for the national airspace. The AAM IWG will produce a comprehensive national strategy with a focus on interagency, multi-modal, global leadership, and intergovernmental cooperation issues, with the objective of identifying challenges that must be overcome by federal agencies for a successful AAM system to develop in the United States.

For general awareness, the IWG has created subgroups with more specific sets of responsibilities and issues to explore:

*Automation Strategy, led by the National Aeronautics and Space Administration (NASA):* Focused on understanding the acceleration of the desired transition from initial AAM operations with conventionally qualified, onboard pilots through advanced capabilities proposed by the AAM industry, such as simplified vehicle operations, remotely piloted operations, autonomous operations, and

remotely supervised flight operations. This group is considering automation strategy with a comprehensive view related to vehicle, airspace, and enabling communication, navigation, and surveillance (CNS) capabilities to enable various automation/autonomy stages.

*Security Requirements, led by the Transportation Security Administration (TSA):* Focused on resolving security concerns related to the introduction and expansion of AAM operations into the existing interconnected transportation domain, preventing the errant or malicious use of AAM systems, and identifying and mitigating potential security risks to AAM aircraft, operations, ground support systems, and other critical infrastructure.

*Air Traffic Federation, led by the FAA:* Focused on identifying the requirements and operations management needed to ensure continued safety of the national airspace system (NAS).

*Infrastructure Development, led by the Federal Communications Commission and the FAA:* Focused on understanding the aviation facilities needed to support AAM operations, including ground infrastructure; services, including emergency services; accessibility and competition; telecommunications; weather observation and prediction; utility resources; maintenance of vertiports; sensory systems needed for communications, navigation, and surveillance; and multimodal compatibility.

*Community Roles, led by NASA and the FAA:* Focused on understanding the need for good public planning for these new technologies and issues such as land governance, transportation equity and accessibility, economic impacts, environmental issues, and workforce development.

The IWG is aware that a national strategy for AAM may describe programs or plans that affect the equities of other aviation stakeholders and business models, including drone operators, who may use portions of the same airspace and may be undertaking some similar missions, such as transportation of cargo. While the Act focuses on AAM, the IWG welcomes comments from drone stakeholders insofar as a national AAM strategy should be aligned to achieve positive and consistent outcomes for all users of the national airspace. Section 2(d) of the Act requires the IWG to coordinate with a variety of external stakeholders including:<sup>4</sup> AAM manufacturers,

<sup>1</sup> See for example, this private industry assessment: <https://nexacapital.com/reports-and-commentary>.

<sup>2</sup> See Advanced Air Mobility Coordination and Leadership Act, Public Law 117–203, accessible at <https://www.congress.gov/bills/117th-congress/senate-bill/516/text>.

<sup>3</sup> Sec. 2(b) of the Act.

<sup>4</sup> See Public Law 117–203.

commercial air carriers, potential AAM operators, labor representatives, state and local governments, and others.

## II. Request for Information

The DOT, working with its federal interagency partners, wishes to hear from the public and any stakeholders on the critical issues of importance in drafting a national AAM strategy. DOT will share and discuss this information with the other federal agencies participating in the IWG. Respondents may provide information for any topic or question below. There is no requirement to address any particular issue or question. Through this RFI, DOT primarily seeks information regarding:

- what should be addressed in the AAM national strategy,
- what respondents believe are existing barriers to success of AAM implementation; and
- what steps should the Federal Government focus on in the short (2–3 years), medium (4–8 years), and long term (8+ years) in order to maximize the potential for successful AAM implementation in the United States. Commenters may wish to identify specific steps for specific federal agencies.

Comments on ongoing rulemaking actions at DOT or other federal agencies should be made to those respective dockets. This request for information will support the AAM IWG's high-level efforts to draft a national AAM strategy.

In addition to the above, DOT welcomes further and more detailed input on all subjects outlined in Section 2(e) of the Act,<sup>5</sup> as well as the more specific subjects listed below. The topics below were identified by the AAM IWG subgroups as important,

although many of them, such as cybersecurity, overlap between more than one subgroup.

**1. Most Likely Use Cases:** Descriptions of the most likely use cases for AAM in the short, medium, and long term along with high-level estimations of when these use cases may come to market. Also, what government actions could enhance or inhibit those market timelines? Are there use cases that are a national priority? Please include descriptions of the operating areas, other transportation options available in the operating area, the supporting infrastructure for the conceptual ecosystem, and the roles and expected involvement that private industry as well as the federal, state, local, tribal, and territorial governments would have in AAM integration.

**2. Safety Enhancements:** Understanding that safety must be the key component of any future AAM operations, provide information on how new concepts in aviation, such as third-party service providers, automation, and new forms of navigation-enabling infrastructure, provide for, or even enhance, the level of safety of operations.

**3. Expected Customer Experience:** Information about AAM regarding scheduling and ticketing a flight, arrival at a vertiport, passenger and baggage screening, flights boarding, and flight and postflight experience. This information should include procedures passengers should expect to encounter prior to boarding; assistance available for passengers (either on board the aircraft or on the ground); how passengers communicate problems in the cabin; expected levels of comfort in terms of vibration, transition phases (in/out of hover), cabin noise, heat ventilation and air conditioning air quality; how stowage of cargo is achieved including essential items such as wheelchairs; and divisions of responsibility between vertiport and operations personnel. Any comments specific to cargo or other types of AAM operations are also welcome.

**4. Research, Development, and Testing Environment:** Information about the current status, accessibility, and adequacy of policies and institutions to promote research and development that enable a world-class AAM industry in the United States. Please comment on the adequacy and suitability of existing, congressionally directed test sites. The AAM IWG is also interested in the processes for enabling testing of these technologies and systems, and suggested expansions or improvements of testing locations, platforms, or other suggestions to better enable testing of

emerging aviation technologies and highly automated systems. As part of the comprehensive testing options, the AAM IWG is interested in understanding simulation, demonstrations, and validation capabilities that must be available to conduct demonstration and validation activities to accelerate maturity.

**5. Statutory and Regulatory Scheme:** Information about specific statutes, federal regulations, or other legal authorities that could be created or updated to support AAM in the United States and maintain the regulatory agility necessary to safely enable this new form of transportation.

**6. Role of State, Local, Tribal, and Territorial Governments:** Information about the role that state, local, tribal, and territorial governments should play in enabling AAM in the United States.

**7. Anticipated Power Requirements:** Information about the anticipated demand on power grids by AAM, the ability of municipal power grids to accommodate this anticipated demand, and improvements or investments in power infrastructure needed to enable such operations. This also includes information on how AAM could generally assist in achieving long-term energy sustainability and efficiency goals, such as using alternative forms of energy for propulsion (e.g., hydrogen), and the infrastructure requirements that would accompany these alternative power structures.

**8. Supply Chain:** Information about existing or planned supply chain requirements for current AAM manufacture, including traceability of components and potential vulnerabilities in the event of possible international supply chain disruptions such as what occurred during the COVID pandemic. To ensure that the AAM industry at large will be supported in the entire life cycle without causing undue security risks and ensuring U.S. competitiveness, the original equipment manufacturers (OEMs) as well as suppliers, are encouraged to provide inputs related to the challenges and gaps they may experience in future AAM supply chains. This includes supply chain challenges related to the entire life cycle, from mining, materials, processing, manufacturing capabilities, and limited/few suppliers. In particular, dependencies on foreign entities that could cause security risks must be clearly understood.

**9. Privacy:** Information about the technologies, data systems, software, or other products that can be used in conjunction with emerging technologies that potentially impact the privacy of the public.

<sup>5</sup> Sec. 2(e) Review and Examination. Not later than 1 year after the working group is established under subsection (a), the working group shall complete a review and examination of, at a minimum—(1) the steps that will mature AAM aircraft operations, concepts, and regulatory frameworks beyond initial operations; (2) the air traffic management and safety concepts that might be considered as part of evolving AAM to higher levels of traffic density; (3) current Federal programs and policies that could be leveraged to advance the maturation of the AAM industry; (4) infrastructure, including aviation, cybersecurity, telecommunication, multimodal, and utility infrastructure, necessary to accommodate and support expanded operations of AAM after initial implementation; (5) steps needed to ensure a robust and secure domestic supply chain; (6) anticipated benefits associated with AAM aircraft operations, including economic, environmental, emergency and natural disaster response, and transportation benefits; (7) the interests, roles, and responsibilities of Federal, State, local, and Tribal governments affected by AAM aircraft operations; and (8) other factors that may limit the full potential of the AAM industry, including community acceptance or restrictions of such operations.

10. *Workforce Development:* Information about the knowledge, skills, and abilities needed in the working population to accelerate AAM in the United States, including federal labor policies that could assist or expand the populations available to support the AAM industry. What can federal agencies do, working together, to build a skilled labor force in the United States to support the growth of this industry? This inquiry also includes information about educational pathways and training programs necessary to produce a workforce competent to operate, manage, fix, improve, and regulate emerging aviation technologies, associated infrastructure, and underlying policies.

11. *Global Leadership and International Practices:* Information about the steps that the United States needs to take to become a durable global leader in AAM and safe automated technologies, from establishing regulatory standards and practices that will enable the industry to safely develop the engagements necessary that support international AAM services in North America and beyond. In addition, the AAM IWG seeks information about the impact of foreign government approaches to regulate emerging airspace technologies, including recommended practices the U.S. government should consider adopting as well as practices the U.S. government should avoid.

12. *National Security and Aviation Security Implications:* Information about the national security implications of accelerating AAM in the United States, specifically how physical security of passengers and cargo should be addressed and who should bear responsibility for security assurances, security and system resilience, and what threats exist in considering the growth of counter-drone capabilities that will operate in similar low-altitude airspace. Information on these and other security issues should include the dual-use nature of any emerging airspace technologies and any opportunities or vulnerabilities created by emerging technologies and associated risk mitigation recommendations.

13. *Vertiport Development and Operations:* Information about the expected role of governments and private industries at all levels as to the development, funding, and operation of vertiports. The term “vertiport” in this capacity is meant to describe a range of specialty landing, boarding, and takeoff areas designed for AAM operations, including single-operation vertiports, vertiports integrated into existing airports and heliports today, as well as

sprawling, multi-operation, multi-purpose, and multi-transportation option vertiports that act as commercial and transportation hubs. The AAM IWG seeks information on whether system planning similar to the National Plan of Integrated Airport Systems<sup>6</sup> should exist for vertiports, and what level of coordination is required for effective vertiport planning and use.

14. *Electromagnetic Spectrum:* Information on the electromagnetic spectrum and telecommunications infrastructure needs of piloted and autonomous AAM applications in the near, medium, and long term, including what spectrum-using applications (e.g. communications, navigation, radar, command and control, payload, telemetry, or others) should be considered necessary components of an AAM ecosystem and what the state of development of such applications is in the near, medium, and long term; what spectrum bands are being considered or tested to support such applications; any specific spectral characteristics needed to support various AAM applications (e.g. bandwidth, propagation characteristics, and reliability); network infrastructure deployment scenarios under development for functions such as command and control; network architecture needed for local/regional/nationwide flights; additional systems or capacities needed; forecasting of expected demand in the near, medium, and long-term for frequencies; risks associated with integrating AAM into existing navigation, communication, and other systems; and any statutory, legal or policy changes related to electromagnetic spectrum use that would facilitate AAM.

15. *System Resilience:* Information about how the AAM industry plans to secure critical systems by integrating cybersecurity and identifying critical systems in the design of overall architecture of the sector as it evolves. Furthermore, include what tools are available or must be developed to identify critical AAM systems and ensure that those systems have the necessary measures in place to identify, detect, and mitigate potential software intrusions. The government also seeks information about how overall transportation system resilience will be affected by AAM.

16. *Environmental Impacts and Public Involvement.* Information regarding the reasonably foreseeable environmental benefits and costs of integrating AAM operations into the U.S. airspace and broader transportation system,

including the application of any standard methodologies to identify, investigate, and evaluate (either qualitatively or quantitatively) potential environmental impacts and available mitigation measures. Information regarding opportunities to synchronize, sequence, or coordinate applicable permitting/licensing and public involvement/consultation requirements or processes across Federal, State, local, or Tribal government to minimize duplication and improve efficiency and effectiveness.

17. *Alternative Means of Navigation Beyond GPS:* Given that these vehicles are expected to operate in urban, suburban, and remote places, reliable and persistent GPS may not be always available. Additionally, AAM are expected to operate in areas where today's radar arrays do not or cannot provide service. What are the most efficient, reliable, and readily available means to provide communication, navigation, and surveillance for AAM in a way that will not disrupt other modes of transportation? Please provide thorough information on alternative options to ensure continuity of navigation using alternative position, navigation, and timing capabilities.

18. *Overall Functional Architecture:* Given that AAM is an ecosystem consisting of aircraft, airspace, enabling communication, navigation, and surveillance technologies, as well as infrastructure, it is important to ensure consistency of assumptions about functions and requirements from each of these components. Please provide information regarding your assumptions about functional capabilities needed for infrastructure, communication, navigation, and surveillance technologies. This will enable the development of a functional architecture consisting of comprehensive functional requirements and their performance, information exchanges, and various assumptions about roles and responsibilities.

19. *Automation Standards:* Information on needed consensus areas, standards, and design guidelines related to automation; critical integration challenges with the national airspace system; and data needed or available to inform standards, safety tools, and artificial intelligence/machine learning enabled systems.

20. *Other Areas of Interest:* Respondents are encouraged to identify areas that are not directly identified or not adequately expressed for which inter-governmental coordination is critical to the success of AAM ecosystem.

<sup>6</sup> Accessible at [https://www.faa.gov/airports/planning\\_capacity/npia](https://www.faa.gov/airports/planning_capacity/npia).

Issued in Washington, DC, on May 11, 2023.

**Carlos Monje,**

*Under Secretary for Policy, Department of Transportation.*

[FR Doc. 2023–10448 Filed 5–16–23; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Collection; Requesting Comments on Collection of Qualitative Feedback on Agency Service Delivery**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning collection of qualitative feedback on agency service delivery.

**DATES:** Written comments should be received on or before July 17, 2023 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [pra.comments@irs.gov](mailto:pra.comments@irs.gov). Include OMB Control No. 1545–2256 in the subject line of the message.

#### **FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of this collection should be directed to Jon Callahan, (737) 800–7639, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [jon.r.callahan@irs.gov](mailto:jon.r.callahan@irs.gov).

**SUPPLEMENTARY INFORMATION:** The IRS is currently seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

*Title:* Collection of Qualitative Feedback on Agency Service Delivery.

*OMB Number:* 1545–2256.

*Abstract:* This collection of information is necessary to enable the IRS to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with IRS programs.

*Current Actions:* The IRS will be conducting different opinion surveys, focus group sessions, think-aloud interviews, and usability studies regarding cognitive research surrounding forms submission or IRS system/product development.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals and households, and business or other for-profit organizations.

*Estimated Number of Responses:* 24,636.

*Estimated Time per Respondent:* 15 minutes to 1.05 hours.

*Estimated Total Annual Burden Hours:* 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 11, 2023.

**Jon R. Callahan,**

*Tax Analyst.*

[FR Doc. 2023–10457 Filed 5–16–23; 8:45 am]

**BILLING CODE 4830–01–P**



# FEDERAL REGISTER

---

Vol. 88

Wednesday,

No. 95

May 17, 2023

---

## Part II

### The President

---

Notice of May 16, 2023—Continuation of the National Emergency With Respect to the Stabilization of Iraq



---

# Presidential Documents

---

Title 3—

Notice of May 16, 2023

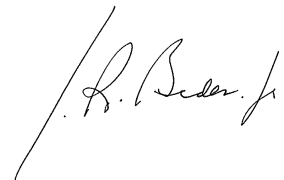
The President

## Continuation of the National Emergency With Respect to the Stabilization of Iraq

On May 22, 2003, by Executive Order 13303, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq.

The obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13303, as modified in scope and relied upon for additional steps taken in Executive Order 13290 of March 20, 2003, Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, Executive Order 13438 of July 17, 2007, and Executive Order 13668 of May 27, 2014, must continue in effect beyond May 22, 2023. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,  
May 16, 2023.

# Reader Aids

## Federal Register

Vol. 88, No. 95

Wednesday, May 17, 2023

### CUSTOMER SERVICE AND INFORMATION

#### Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000****Laws** **741-6000**

#### Presidential Documents

Executive orders and proclamations **741-6000****The United States Government Manual** **741-6000**

#### Other Services

Electronic and on-line services (voice) **741-6020**Privacy Act Compilation **741-6050**

### ELECTRONIC RESEARCH

#### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: [www.govinfo.gov](http://www.govinfo.gov).Federal Register information and research tools, including Public Inspection List and electronic text are located at: [www.federalregister.gov](http://www.federalregister.gov).

#### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.**Reference questions.** Send questions and comments about the Federal Register system to: [fedreg.info@nara.gov](mailto:fedreg.info@nara.gov)

The Federal Register staff cannot interpret specific documents or regulations.

### FEDERAL REGISTER PAGES AND DATE, MAY

26467-27394.....	1
27395-27654.....	2
27655-28380.....	3
28381-28984.....	4
28985-29534.....	5
29535-29808.....	8
29809-30024.....	9
30025-30212.....	10
30213-30638.....	11
30639-30888.....	12
30889-31142.....	15
31143-31452.....	16
31453-31602.....	17

### CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

#### 3 CFR

##### Proclamations:

10294 (revoked in part by 10575).....	30889
10557.....	26473
10558.....	27395
10559.....	27655
10560.....	27657
10561.....	27661
10562.....	27663
10563.....	27667
10564.....	27671
10565.....	27673
10566.....	27675
10567.....	27677
10568.....	27681
10569.....	27683
10570.....	29535
10571.....	29813
10572.....	30025
10573.....	30027
10574.....	30213
10575.....	30889
10576.....	31143
10577.....	31453
10578.....	31457
10579.....	31461
10580.....	31465

##### Executive Orders:

14042 (revoked by 14099).....	30891
14043 (revoked by 14099).....	30891
14097.....	26471
14098.....	29529
14099.....	30891

##### Administrative Orders:

Memorandums:	
Memorandum of April 19, 2023.....	26467
Memorandum of April 25, 2023.....	26469
Memorandum of May 3, 2023.....	29811
Notices:	
Notice of May 8, 2023.....	30211
Notice of May 10, 2023.....	30635
Notice of May 10, 2023.....	30637
Notice of May 16, 2023.....	31601
Presidential Determinations:	
Presidential Determination No. 2023-07 of May 1, 2023.....	29809

#### 5 CFR

1.....	28381
--------	-------

841.....	31467
842.....	31467

##### Proposed Rules:

531.....	30251
532.....	30251
534.....	30251
930.....	30251

#### 7 CFR

1.....	28381
3.....	30029
800.....	27685
1777.....	30215

##### Proposed Rules:

1260.....	27415
-----------	-------

#### 8 CFR

208.....	31314
1003.....	31314
1208.....	31314

#### 10 CFR

50.....	27692
52.....	27692
72.....	27397
429.....	26658, 27312, 28780, 31102
430.....	27312, 31102
431.....	28381, 28780

##### Proposed Rules:

50.....	27712, 27713, 27714
52.....	27714
72.....	27418
429.....	30836
430.....	26511
431.....	30508, 30836

#### 12 CFR

201.....	30215
204.....	30216
1006.....	26475
1026.....	30598

##### Proposed Rules:

1026.....	30388
1236.....	28433

#### 13 CFR

121.....	28985
124.....	28985
125.....	28985
126.....	28985
127.....	28985

#### 14 CFR

Ch. 1.....	30640
39.....	29815, 31145, 31148, 31152, 31154, 31159, 31163, 31166, 31169, 31171, 31469, 31472
71.....	28985, 28986, 28987, 29537, 29538, 29819, 30217, 30219, 30220, 30221, 30639,



30893, 30895, 30896, 31474	574.....30442	11.....31209	2500.....27423
97.....30223, 30225	576.....30442	41.....31209	
120.....27596	578.....30442	222.....27845	
<b>Proposed Rules:</b>	882.....30442	235.....27845	
21.....29554	884.....30442		<b>46 CFR</b>
25.....30262	886.....30442		<b>Proposed Rules:</b>
29.....30680	902.....30442	<b>39 CFR</b>	10.....29013
39.....27716, 27725, 27734,	965.....30442	<b>Proposed Rules:</b>	11.....29013
27742, 27749, 27786, 27799,	982.....30442	20.....30689	12.....29013
29555, 30264, 30682, 30685,	983.....30442	111.....30068	13.....29013
30909, 30911, 30914	985.....30442		15.....29013
71.....29557, 29559, 29562,	<b>Proposed Rules:</b>	<b>40 CFR</b>	16.....29013
29563, 29565, 29566, 29568,	50.....30267	52.....29539, 29825, 29827,	25.....26514
29569, 29571, 29573, 29575,	55.....30267	30652	28.....26514
29577, 29579, 29580, 29849,	58.....30267	60.....29978	30.....29013
30266, 30687	200.....30267	174.....29835	35.....29013
1216.....27804		180.....26495, 26498, 28427,	39.....29013
	<b>26 CFR</b>	29541, 29835, 30043, 31476	108.....26514
<b>15 CFR</b>	<b>Proposed Rules:</b>	271.....29839	117.....26514
<b>Proposed Rules:</b>	1.....27819, 30058	<b>Proposed Rules:</b>	133.....26514
30.....27815	52.....26512	52.....28918, 29591, 29596,	141.....26514
		29598, 29616	160.....26514
<b>16 CFR</b>	<b>27 CFR</b>	63.....30917	169.....26514
1222.....29820	<b>Proposed Rules:</b>	78.....28918	180.....26514
1261.....28403	9.....27420	85.....29184	199.....26514
1272.....30226		86.....29184	
<b>Proposed Rules:</b>	<b>31 CFR</b>	97.....28918	<b>47 CFR</b>
1632.....29582	583.....31475	131.....29496	1.....29544
	<b>Proposed Rules:</b>	147.....28450	54.....28993
<b>17 CFR</b>	802.....29003	180.....29010	74.....30654
<b>Proposed Rules:</b>	<b>32 CFR</b>	230.....29496	<b>Proposed Rules:</b>
232.....28440, 29184	158.....26477	233.....29496	0.....29035
240.....28440, 29184	<b>Proposed Rules:</b>	271.....29878	1.....29035
242.....29184	236.....27832	600.....29184	64.....27850, 29035
249.....29184		751.....28284	90.....26515
	<b>33 CFR</b>	1036.....29184	
<b>18 CFR</b>	3.....30898	1037.....29184	<b>49 CFR</b>
35.....28348	100.....30229, 30645, 31475	1066.....29184	40.....27596
	117.....28990, 30231	<b>41 CFR</b>	219.....27596
<b>19 CFR</b>	147.....27402	<b>Proposed Rules:</b>	240.....27596
Ch. I.....30033, 30035	165.....27407, 28408, 28991,	51-2.....27848	242.....27596
<b>Proposed Rules:</b>	28992, 28993, 30648, 30650,	51-3.....27848	382.....27596
351.....29850	30900, 30902, 30904, 30906,	51-5.....27848	655.....27596
	31174, 31175		
<b>21 CFR</b>	<b>Proposed Rules:</b>	<b>42 CFR</b>	
510.....27693	100.....30268	12.....30037	<b>50 CFR</b>
516.....27693	117.....28442, 29005, 29007,	410.....27413	17.....28874, 30047, 30233
520.....27693	29584, 29586	<b>Proposed Rules:</b>	300.....30671, 30907
522.....27693	147.....27839	411.....26658	622.....27701, 29843
524.....27693	165.....26512, 27421, 28444	412.....26658	635.....28430, 30234
526.....27693	181.....26514	419.....26658	648.....26502, 27709, 31193
529.....27693		430.....28092	660.....29545, 30235
556.....27693	<b>34 CFR</b>	431.....27960	679.....27711
558.....27693	Ch. II.....27410	438.....27960, 28092	<b>Proposed Rules:</b>
1307.....30037	<b>Proposed Rules:</b>	441.....27960	17.....27427
<b>Proposed Rules:</b>	Ch. II.....31196	447.....27960	217.....28656
73.....27818	<b>36 CFR</b>	457.....28092	223.....30690
	1224.....28410	488.....26658	300.....29043
<b>24 CFR</b>	1225.....28410	489.....26658	600.....30934
5.....30442	1236.....28410	495.....26658	622.....29048
92.....30442			635.....29050, 29617, 30699
93.....30442	<b>37 CFR</b>	<b>45 CFR</b>	648.....28456, 30938
200.....30442	<b>Proposed Rules:</b>	2556.....31178	660.....31214
570.....30442	1.....31209	<b>Proposed Rules:</b>	679.....30272
		1100.....27848	

---

**LIST OF PUBLIC LAWS**

---

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List April 12, 2023

---

**Public Laws Electronic Notification Service (PENS)**

---

**PENS** is a free email notification service of newly

enacted public laws. To subscribe, go to <https://portalguard.gsa.gov/—layouts/PG/register.aspx>.

**Note:** This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.